Supreme Court, U.S.
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No. 94-558 and 94-627

In the Supreme Court of the United States

OCTOBER TERM, 1994

UNITED STATES OF AMERICA, APPELLANT

v.

RAY HAYS

STATE OF LOUISIANA, APPELLANT

v.

RAY HAYS

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA

JOINT APPENDIX

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JURISDICTIONAL STATEMENTS FILED SEPTEMBER 26, 1994
PROBABLE JURISDICTION NOTED DECEMBER 12, 1994

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U.S. DISTRICT COURT FOR WESTERN LOUISIANA (SHREVEPORT)

Hays, et al.

v.

Louisiana, et al.

Filed: 08/10/92

CIVIL DOCKET FOR CASE #: 92-CV-1522

* * * * *

8/10/92	–	COMPLAINT filed in 3rd JDC Lincoln Parish on 8/7/92 #40,396. (bp) [Entry date 08/13/92]
8/10/92	1	NOTICE OF REMOVAL by State of Louisiana, Edwin W Edwards, Samuel B Nunez Jr, John A Alario Jr, W Fox McKeithen & Jerry M Fowler.

* * * * *

8/12/92	3	ORDER CONSTITUTING THREE-JUDGE COURT; Requesting Judge: Donald E. Walter; Circuit Judge: Jacques L. Wiener, Jr. & District Judge: John M. Shaw. (signed by Judge Henry A. Politz)

* * * * *

8/26/92	15	MINUTES OF COURT from trial w/out jury 1st day. (by Judge Donald E.

		Walter, Judge Jacques L Wiener, Jr. & Chief Judge John M. Shaw)
		* * * * *
8/27/92	16	MINUTES OF COURT from trial w/out jury 2nd day. At close of plaintiff's case, defense made oral motion to dismiss which was taken under advisement by panel. (by Judge Donald E. Walter, Judge Jacques L. Wiener, Jr. & Chief Judge John M. Shaw)
		* * * * *
8/19/93	69	MINUTES OF COURT from Evidentiary Hearing. Pursuant to 18 USC Sec. 2284, a Three-Judge Court convened to allow additional and supplemental testimony and evidence in light of Shaw vs. Reno. The Court revokes its ruling issued following trial in this matter in August, 1992. At the conclusion of this hearing, counsel may submit simutaneous affidavits by 8/27/93. Counter simultaneous affidavits are to be submitted by 9/3/93. (by Judge Donald E. Walter)
		* * * * *
12/28/93	75	MEMORANDUM RULING, by Judges Shaw, Walter & Wiener, declaring Act 42 of 1992 to be unconstitutional and the redistricting plan embodied therein to be null and void; enjoining the State of Louisiana from holding any future congressional elections based on the Plan; and, although we do not invalidate the

		1992 congressional elections held thereunder, hold that the term of office of each member of the United States House of Representatives from Louisiana who represents a district created under the plan shall expire, ipso facto, at noon on the 3rd day of January, 1995, such terms of office not to be extended or carried over into the next Congress in any manner whatsoever.
12/29/93	76	JUDGMENT in favor of Plaintiff and against Defendants. It is adjudged that Act 42 of 1992 of the State of Louisiana is unconstitutional, and the redistricting plan embodied therein is null and void; It is further adjudged that the State of Louisiana is enjoined from holding any future congressional elections based on the plan contained in Act 42 of 1992 of the State of Louisiana; It is further adjudged that, while the 1992 congressional elections are not invalidated, the term of office of each member of the United States House of Representatives from Louisiana who represents a district created under the plan in Act 42 of 1992 of the State of Louisiana, and each district created under such plan, shall expire, ipso facto, at noon on the 3rd day of January, 1995, and such terms of office and such districts shall not be extended or carried over into the next Congress in any manner whatsoever. (signed by Robert H. Shemwell)

* * * * *

7/1/94	87	LETTER from Supreme Court of the United States to Robert Shemwell regarding [80-1] appeal that the judgment is vacated and the case is remanded to the US District Court for further consideration. The judgment or mandate will not issue for at least 25 days pursuant to Rule 45. Should a petition for rehearing be filed timely, the judgment or mandate will be further stayed pending this Court's action on the petition for rehearing. Copy forwarded to Judge Walter, Judge Shaw, Judge Wiener by ds.

* * * * *

7/5/94	89	MOTION to intervene by USA with Memorandum, Proposed Order and Proposed Answer referred to Judge Donald E. Walter

* * * * *

7/6/94	91	ORDER granting [89-1] motion to intervene by USA. (signed by Judge Donald E Walter)
7/6/94	92	AMENDED COMPLAINT by Ray Hays, Edward L Adams, Susan Shaw Singleton, Gary Stokley.

* * * * *

7/11/94	96	MOTION by defendants State of Louisiana et al for continuance of trial on merits, or, in the alternative, for severance of preliminary injunction hearing from trial on the merits and for other

		relief with Proposed Order referred to Judge Donald E. Walter
7/11/94	97	MEMORANDUM by USA in support of [96-1] motion for continuance of trial on merits
7/11/94	98	ORDER denying [96-1] motion for continuance of trial on merits, denying [96-2] motion for severance of preliminary injunction hearing from trial on the merits and for other relief (signed by Judge Donald E. Walter)

* * * * *

7/21/94	105	MINUTES OF COURT from bench trial/evidentiary hearing. Pursuant to remand by the Supreme Court and in accordance with 28 USC 2284, a 3-Judge Court convened to determine the constitutionality of the appointment of congressional districts, Act 1 of the 1994 2nd Extraordinary Session of the Louisiana Legislature. (by Judge Donald E. Walter, Judge Jacques L. Wiener, Jr. and Judge John M. Shaw)

* * * * *

7/22/94	112	MINUTES OF COURT from 2nd day of bench trial/evidentiary hearing. The Court heard argument on plaintiffs' motion for judgment as a matter of law made at the close of defendants' evidence. For the reasons orally assigned, the motion is GRANTED. The Court finds Act 1 of the Second Special Session of the 1994 Louisiana Legislature is un-

constitutional in that it violates the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. The court will issue a written ruling in accordance with its findings. Defendant's motion under Rule 62 for stay pending appeal is DENIED, (by Judge Donald E. Walter, Judge Jacques L. Wiener, Jr. and Judge John M. Shaw)

* * * * *

7/25/94 118 ORDER granting Plaintiffs' Motion for Judgment as a Matter of Law, as set forth herein. This court reserves the right to issue, and intends to issue, a memorandum opinion consistent with this Order, (signed by Judge Donald E. Walter)

* * * * *

7/26/94 123 NOTICE OF APPEAL to Supreme Court by USA from order entered 7/26/94 by Judges Walter, Wiener, Shaw.

* * * * *

7/29/94 124 MEMORANDUM OPINION pursuant to Order Document #118 filed 7/25/94 (by Circuit Judge Wiener, Chief District Judge Shaw and District Judge Walter)

* * * * *

7/29/94 125 NOTICE OF APPEAL to Supreme Court by State of Louisiana, Edwin W Edwards, Samuel B Nunez Jr, John A Alario Jr, W Fox McKeithen, Jerry M

		Fowler from order entered 7/26/94 by Judges Walter, Wiener and Shaw.
8/2/94	126	CERTIFIED COPY OF JUDGMENT issued by the Supreme Court of the United States on 6/27/94 remanding this case to the United States District Court for the WDofLA for further consideration.

* * * * *

8/15/94	130	COPY OF ORDER from United States Supreme Court. The applications for stay presented to Justice Scalia and by him referred to the Court are granted and it is ordered that the judgment of the United States District Court for the Western District of Louisiana, Civil Action No. CV 92-1522S, filed July 25, 1994, is stayed pending the timely filing of statements as to jurisdiction in this Court. Should such statements be so timely filed, this order shall remain in effect pending this Court's action on the appeals. If the judgment should be affirmed, or the appeals dismissed, this stay shall expire automatically. In the event jurisdiction is noted, or postponed, this order shall remain in effect pending the sending down of the judgment of this Court. Justice Scalia would deny the applications.

* * * * *

12/9/94	135	ORDER of SUPREME COURT regarding [118-1] order, directing that said

		order shall be re-entered. Order [118-1] re-entered and re-noticed to counsel on 12/9/94.
12/9/94	118	RE-ENTERED ORDER granting Plaintiff's Motion for Judgment as a Matter of Law, as set forth herein. This court reserves the right to issue, and intends to issue, a memorandum opinion consistent with this Order, (signed by Judge Donald E. Walter)
12/9/94	136	NOTICE OF APPEAL to Supreme Court by USA from order entered 12/9/94, signed by Judge Donald E. Walter.

* * * * *

12/12/94	139	NOTICE OF APPEAL to Supreme Court by State of Louisiana, Edwin W Edwards, Samuel B Nunez Jr, John A Alario Jr, W Fox McKeithen, Jerry M Fowler, Unidentified State, from order entered 12/9/94.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, ET AL., PLAINTIFFS

versus

EDWIN W. EDWARDS, IN HIS OFFICIAL CAPACITY
AS GOVERNOR OF THE STATE OF LOUISIANA,
ET AL., DEFENDANTS

[Reentered Dec. 9, 1994]

ORDER

IT IS ORDERED that Plaintiffs' Motion for Judgment as a Matter of Law be and it is hereby GRANTED.

IT IS FURTHER ORDERED that Act 1 of the Second Special Session of the 1994 Louisiana Legislature (the Act) is unconstitutional, in that it violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and the redistricting plan embodied in the Act is null and void.

IT IS FURTHER ORDERED that the State of Louisiana is permanently enjoined from holding any elections under the Act.

IT IS FURTHER ORDERED that, although we do not invalidate the 1992 congressional elections, the term of office of each member of the United States House of Representatives from Louisiana who represents a district created under the plan in Act 42 of 1992 of the State of Louisiana, and each district created under such plan, shall expire, *ipso facto,* at noon on the 3rd day of January, 1995, and such terms of office and such districts shall not be extended or carried over into the next Congress in any manner whatsoever.

IT IS FURTHER ORDERED that a congressional redistricting plan for the State of Louisiana is hereby provided, as set forth in Appendix A, on the basis of which all congressional elections for the seven (7) United States Representatives from the State of Louisiana to the One Hundred Fourth Congress shall be conducted, with the dates for qualifying and for holding such elections to be established by the cognizant officials of the State of Louisiana according to law; and that all subsequent elections of United States Representatives from the State of Louisiana shall be conducted under the plan provided by this court until and unless a congressional districting plan enacted by the State of Louisiana according to law is submitted to this court and is determined by it to be constitutionally valid.

IT IS FURTHER ORDERED that, as prevailing parties in all phases of this case to date, the Plaintiffs are entitled to recover all reasonable costs, attorneys' fees and expenses, including reasonable expert witness fees, pursuant to 42 U.S.C. 1988, in amounts to be determined by reference to United States Magistrate Judge Roy S. Payne for review and recommendations; provided, however, that such determination shall not prevent this Order from becoming final immediately upon its being filed.

This court reserves the right to issue, and intends to issue, a memorandum opinion consistent with this Order.

FOR THE COURT:

/s/ Donald E. Walter

DONALD E. WALTER
District Judge

Judgement Entered 7/26/94

Judgement Reentered 12/9/94

LOUISIANA CONGRESSIONAL DISTRICTS

The State of Louisiana is divided into the following seven Congressional Districts:

DISTRICT 1

District 1 is composed of Precincts 3-G, 5-G, 8-G, 9-G, 10-G, 1-H, 2-H, 3-H, 4-H, 5-H, 6-H, 7-H, 8-H, 9-H, 1-K, 2-K, 3-K, 4-K, 5-K, 6-K, 7-K, 8-K, 9-K, 10-K, 11-K, 12-K, 13-KA, 15-K, 16-K, 17-K, 18-K, 19-K, 20-K, 25-K, 27-K, 28-K, 34-K, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 134, 135, 136, 137, 170, 171, 174B, 175, 176, 177, 178, 182, 183, 184, 185, 193, 194A, 195, 210, 211, 225, 226, 227, 228, 229, 230, 231, and 234 of Jefferson Parish; Precincts 3-20, 4-8, 4-9, 4-10, 4-10A, 4-11, 4-12, 4-13, 4-13A, 4-14, 4-14A, 4-15, 4-16, 4-16A, 4-17, 4-17A, 4-18, 4-18A, 4-19, 4-20, 4-20A, 4-21, 4-21A, 4-22, 4-23, 5-12, 5-13, 5-14, 5-15, 5-16, 5-17, 5-18, 5-19, 7-33A, 7-40, 7-41, 7-42, 12-4, 13-1, 14-1, 14-2, 14-3, 14-4, 14-8, 14-9, 14-10, 14-11, 16-2, 17-1, 17-17, 17-18, 17-18A, 17-18B, 17-19, 17-19A, 17-20, and 17-21 of Orleans Parish; St. Tammany Parish; Tangipahoa Parish; and Washington Parish.

DISTRICT 2

District 2 is composed of Precincts 1-G, 2-G, 4-G, 6-G, 7-G, 11-G, 13-KB, 14-K, 21-K, 22-K, 23-K, 24-K, 26-K, 29-K, 30-K, 31-K, 32-K, 33-K, 1-W, 2-W, 3-W, 4-W, 5-W, 6-W, 7-W, 8-W, 9-W, 104, 107, 115, 131, 133, 138, 150, 151, 152, 153, 154, 155, 156, 157A, 157B, 172, 173, 174A, 179A, 179B, 180, 181, 186, 187, 188, 189, 190, 191, 192, 194B, 196, 197, 198, 212, 213A, 213B, 213C, 214, 215, 232, 233, 235, 236, 237, 246A, and 246B of Jefferson Parish and Precincts 1-1, 1-2, 1-5, 1-6, 1-7, 2-1, 2-2, 2-3, 2-4, 2-5, 2-6, 2-6A, 2-7, 3-1, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 3-12, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-9, 5-10, 5-11, 6-1, 6-2, 6-4, 6-5, 6-6, 6-7, 6-8, 6-9, 7-1, 7-2, 7-4, 7-4A, 7-5, 7-6, 7-7, 7-8, 7-9, 7-9A, 7-10, 7-11, 7-12, 7-13, 7-14, 7-15, 7-16, 7-17, 7-18, 7-19, 7-20, 7-20A, 7-21, 7-22, 7-23, 7-24, 7-25, 7-25A, 7-26, 7-26A, 7-27, 7-27A, 7-27B, 7-28, 7-28A, 7-29, 7-30, 7-31, 7-32, 7-33, 7-34, 7-35, 7-36, 7-36A, 7-37, 7-37A, 7-38, 7-38A, 7-39, 8-1, 8-2, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15, 8-16, 8-17, 8-18, 8-19, 8-20, 8-21, 8-22, 8-23, 8-24, 8-25, 8-25A, 8-26, 8-26A, 8-27, 8-27A, 8-28, 8-29, 8-30, 9-1, 9-2, 9-3, 9-3A, 9-3B, 9-4, 9-5, 9-5A, 9-6A, 9-6B, 9-6C, 9-6D, 9-6E, 9-6F, 9-7, 9-8, 9-8A, 9-8B, 9-9, 9-10, 9-11, 9-12, 9-13, 9-14, 9-15, 9-16, 9-17, 9-18, 9-19, 9-20, 9-21, 9-22, 9-23, 9-24, 9-25, 9-25A, 9-26, 9-26A, 9-27, 9-28, 9-28A, 9-28B, 9-28C, 9-28D, 9-28E, 9-28F, 9-29, 9-29A, 9-30, 9-30A, 9-31, 9-31A, 9-31B, 9-31C, 9-31D, 9-31E, 9-32, 9-33, 9-33A, 9-34, 9-34A, 9-35, 9-35A, 9-36, 9-36A, 9-36B, 9-36C, 9-37, 9-37A, 9-38, 9-38A, 9-38B, 9-39, 9-39A, 9-39B, 9-40, 9-40A, 9-40B, 9-40C, 9-41, 9-41A, 9-41B, 9-41C, 9-41D, 9-42, 9-42A, 9-42B, 9-42C, 9-42D, 9-42E, 9-43, 9-43A, 9-43B, 9-43C, 9-43D, 9-43E, 9-43F, 9-43G, 9-43H, 9-43I, 9-43J, 9-43K, 9-43L, 9-43M, 9-43N, 9-44, 9-44A, 9-44B, 9-44C, 9-44D, 9-44E, 9-44F, 9-44G, 9-44H, 9-44I, 9-44J, 9-44K, 9-44L, 9-44M, 9-44N, 9-44O, 9-44P, 9-44Q, 9-45, 9-45A, 10-3, 10-4, 10-5, 10-6, 10-7, 10-8, 10-9, 10-10, 10-11, 10-12, 10-13, 10-14, 11-1, 11-2, 11-3, 11-4, 11-5, 11-6, 11-7, 11-8, 11-9, 11-10, 11-11, 11-12, 11-13, 11-14, 11-15, 11-16, 11-17, 11-18, 11-19, 12-1, 12-2, 12-3, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-14, 12-15, 12-16, 12-17, 12-18, 12-19, 12-20, 13-2, 13-3, 13-4, 13-5, 13-6, 13-7, 13-8, 13-9, 13-10, 13-11, 13-12, 13-13, 13-14, 13-14A, 13-15, 13-16, 14-5, 14-6, 14-7, 14-12, 14-13, 14-13A, 14-14, 14-15, 14-16, 14-17, 14-18, 14-18A, 14-19, 14-20, 14-21, 14-22, 14-23, 14-24, 14-24A, 14-25, 14-26, 14-26A, 15-1, 15-2, 15-3, 15-4, 15-5, 15-6, 15-7, 15-8, 15-9, 15-10, 15-11, 15-11A, 15-12, 15-12A, 15-13, 15-13A, 15-13B, 15-14, 15-14A, 15-14B, 15-14C, 15-14D, 15-14E, 15-14F, 15-14G, 15-15, 15-15A, 15-15B, 15-16, 15-17, 15-17A, 15-17B, 15-18, 15-18A, 15-18B, 15-18C, 15-18D, 15-18E, 15-18F, 15-19, 15-19A, 15-19B, 15-19C, 16-1, 16-1A, 16-3, 16-4, 16-5, 16-6, 16-7, 16-8, 16-9, 17-2, 17-3, 17-4, 17-5, 17-6, 17-7, 17-8, 17-9, 17-10, 17-11, 17-12, 17-13, 17-13A, 17-14, 17-15, and 17-16 of Orleans Parish.

DISTRICT 3

District 3 is composed of Precincts 13, 14, 15, 16A & 16B, 27A, 27B, 28, 29, 31, 32, 33, 34, 35A, 35B, 36, 37, 40, 41, and 42 of Ascension Parish; Assumption Parish; Iberia Parish; Precinct 1-GI, 1-LA, 1-LB, 2-L, 216, 217, 238, 247, 248, 249, and 250 of Jefferson Parish; Lafourche Parish; Plaquemines Parish; St. Bernard Parish; St. Charles Parish; St. James Parish; St. John the Baptist Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 2-1 & 2-3, 2-2, 2-4, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 5-1, 5-2, 5-3 & 5-4, 6-1, 6-2, 6-3, 6-4, 7-1, 7-2, 7-3, 7-4, 8-1, 8-2, 8-3, 8-4, 9-1, 9-4, and 9-5 of St. Martin Parish; St. Mary Parish; and Terrebonne Parish.

DISTRICT 4

District 4 is composed of Precincts 1-1, 1-3, 1-4, 1-6, 1-7, 2-6-0, 3-1, 4-1, 4-2, 4-3, 5-2, 5-2A*, 5-5, and 5-10 of Allen Parish; Beauregard Parish; Bienville Parish; Bossier Parish; Caddo Parish; Claiborne Parish; De Soto Parish; Natchitoches Parish; Red River Parish; Sabine Parish; Vernon Parish; and Webster Parish.

DISTRICT 5

District 5 is composed of Avoyelles Parish; Caldwell Parish; Catahoula Parish; Concordia Parish; East Carroll Parish; Precincts 1-2, 1-13-0, 1-13-1, 4-1-2R, 4-1-3R, 4-1C, 4-2-0, 4-2-1, 4-3, 4-4, 5-1, 5-2-0, 5-2-1, 5-2-2, 5-3, 5-4C, 5-4R, and 5-5 of Evangeline Parish; Franklin Parish; Grant Parish; Jackson Parish; La Salle Parish; Lincoln Parish; Madison Parish; Morehouse Parish; Ouachita Parish; Rapides Parish; Richland Parish; Tensas Parish; Union Parish; West Carroll Parish; and Winn Parish.

DISTRICT 6

District 6 is composed of Precincts 1, 2A & B, 3, 4A, 4B, 5A, 5B, 6, 7A, 8A & 8B, 9, 10A & 10B, 11A & 11B, 12, 21A & 21B, 22A, 22B, and 23 of Ascension Parish; East Baton Rouge Parish; East Feliciana Parish; Iberville Parish; Livingston Parish; Pointe Coupee Parish; St. Helena Parish; West Baton Rouge Parish; and West Feliciana Parish.

DISTRICT 7

District 7 is composed of Acadia Parish; Precincts 1-2, 1-5, 2-1, 2-2-C, 2-2-0, 2-3, 2-4-C, 2-4-0, 2-5, 2-6-C, 3-2, 5-1, 5-3, 5-3A*, 5-4-C, 5-4-0, 5-4-X*, 5-4-Y*, 5-6, 5-7, 5-8, 5-8A*, 5-9, 5-11, 5-12, and 5-13 of Allen Parish; Calcasieu Parish; Cameron Parish; Precincts 1-1, 1-3, 1-4-0R, 1-4-1R, 1-4C, 1-5-0, 1-5-1, 1-6, 1-7, 1-8-0, 1-8-1, 1-8-2, 1-9-0C, 1-9-1C, 1-9-2C, 1-9-3C, 1-9R, 1-10-0, 1-10-1, 1-11, 1-12, 1-14, 1-15, 1-16, 1-17-0R, 1-17-1R, 1-17C, 1-18-0C, 1-18-1C, 1-18R, 1-19, 2-1, 2-2, 2-3, 2-4, 2-5, 3-1-0, 3-1-1, 3-2-0, 3-2-1, 3-2-2, 3-3, 3-4, 3-5, 3-6-0, 3-6-1, 3-6-2, 3-7, 3-8, 4-1-0R, and 4-1-1R of Evangeline Parish; Jefferson Davis Parish; Lafayette Parish; St. Landry Parish; Precincts 9-2, and 9-3 of St. Matrin Parish; and Vermilion Parish.

The precincts enumerated herein are the precincts existing on April 17, 1994 established by the respective parish governing authority and used by the Louisiana Legislature in Act 1 of the Second Extraordinary Session of 1994.

Congressional District Statistics
Total Population

District Name	Number Members	Total Population	Ideal Population	District Variance	% District Variance
District 1	1	602,842	602,853	– 11	0.00%
District 2	1	602,877	602,853	24	0.00%
District 3	1	602,839	602,853	– 14	0.00%
District 4	1	602,876	602,853	23	0.00%
District 5	1	602,933	602,853	80	0.01%
District 6	1	602,774	602,853	– 79	– 0.01%
District 7	1	602,832	602,853	– 21	0.00%

PLANWIDE STATISTICS:

Range of populations:	602,774 to 602,933
Ratio range:	1.0003
Absolute range:	– 79 to 80
Absolute overall range:	159
Relative range:	– 0.01 to 0.01%
Relative overall range:	0.03%
Absolute mean deviation:	36.00
Relative mean deviation:	0.01%

Congressional District Summary

Total Population and 1994 Registered Voters

District Name	Total Pop.	Total White	Total Black
District 1	602,842	515,665	72,979
	100.00%	85.54%	12.11%
District 2	602,877	215,630	365,874
	100.00%	35.77%	60.69%
District 3	602,839	443,616	142,167
	100.00%	73.59%	23.58%
District 4	602,876	397,629	195,980
	100.00%	65.96%	32.51%
District 5	602,933	410,725	187,223
	100.00%	68.12%	31.05%
District 6	602,774	402,995	191,421
	100.00%	66.86%	31.76%
District 7	602,832	452,878	143,637
	100.00%	75.13%	23.83%
Total	4,219,973	2,839,138	1,299,281
	100.00%	67.28%	30.79%

Congressional District Summary – Continued

Total Population and 1994 Registered Voters

District Name	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 1	332,945	296,205	32,354
	100.00%	88.97%	9.72%
District 2	292,713	110,239	176,552
	100.00%	37.66%	60.32%
District 3	330,048	250,432	76,915
	100.00%	75.88%	23.30%
District 4	299,652	214,031	82,876
	100.00%	71.43%	27.66%
District 5	333,182	239,419	92,379
	100.00%	71.86%	27.73%
District 6	332,407	238,560	91,507
	100.00%	71.77%	27.53%
District 7	336,429	258,583	76,329
	100.00%	76.86%	22.69%
Total	2,257,376	1,607,469	628,912
	100.00%	71.21%	27.86%

Parish Population by Congressional District

Total Population and 1994 Registered Voters

Census Unit	Total Pop.	Total White	Total Black
District 1			
Jefferson Parish	289,679	261,785	16,940
Orleans Parish	39,761	36,804	2,219
St. Tammany Parish	144,508	126,806	15,917
Tangipahoa Parish	85,709	60,601	24,527
Washington Parish	43,185	29,669	13,376
Total District 1	602,842	515,665	72,979
District 2			
Jefferson Parish	145,700	78,880	60,365
Orleans Parish	457,177	136,750	305,509
Total District 2	602,877	215,630	365,874
District 3			
Ascension Parish	21,079	10,831	10,107
Assumption Parish	22,753	15,273	7,349
Iberia Parish	68,297	46,940	20,154
Jefferson Parish	12,927	10,505	1,737
Lafourche Parish	85,860	72,371	10,703
Plaquemines Parish	25,575	18,522	5,944
St. Bernard Parish	66,631	62,199	3,111
St. Charles Parish	42,437	31,638	10,253
St. James Parish	20,879	10,484	10,357
St. John the Baptist Parish	39,996	25,039	14,419
St. Martin Parish	41,337	27,044	13,664
St. Mary Parish	58,086	37,688	18,337
Terrebonne Parish	96,982	75,082	16,032
Total District 3	602,839	443,616	142,167

Parish Population by Congressional District—Continued

Total Population and 1994 Registered Voters

Census Unit	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 1			
Jefferson Parish	153,838	145,986	5,351
Orleans Parish	26,264	24,516	1,318
St. Tammany Parish	82,209	73,706	7,225
Tangipahoa Parish	45,988	34,015	11,831
Washington Parish	24,646	17,982	6,629
Total District 1	332,945	296,205	32,354
District 2			
Jefferson Parish	63,586	36,331	25,897
Orleans Parish	229,127	73,908	150,655
Total District 2	292,713	110,239	176,552
District 3			
Ascension Parish	13,202	7,186	5,983
Assumption Parish	13,823	9,411	4,410
Iberia Parish	38,442	27,371	10,951
Jefferson Parish	6,940	6,011	737
Lafourche Parish	43,794	39,464	4,243
Plaquemines Parish	14,589	10,454	3,137
St. Bernard Parish	39,195	37,308	1,754
St. Charles Parish	25,533	19,315	6,184
St. James Parish	13,676	7,093	6,567
St. John the Baptist Parish	22,263	13,593	8,580
St. Martin Parish	24,405	16,495	7,850
St. Mary Parish	30,986	21,270	9,508
Terrebonne Parish	43,200	35,461	7,011
Total District 3	330,048	250,432	76,915

Parish Population by Congressional District – Continued

Total Population and 1994 Registered Voters

Census Unit	Total Pop.	Total White	Total Black
District 4			
Allen Parish	7,050	6,049	972
Beauregard Parish	30,083	25,242	4,489
Bienville Parish	15,979	8,986	6,949
Bossier Parish	86,088	67,030	17,381
Caddo Parish	248,253	146,580	99,511
Claiborne Parish	17,405	9,313	8,041
De Soto Parish	25,346	14,003	11,141
Natchitoches Parish	36,689	22,357	13,779
Red River Parish	9,387	5,752	3,589
Sabine Parish	22,646	17,939	3,984
Vernon Parish	61,961	45,828	12,867
Webster Parish	41,989	28,550	13,277
Total District 4	602,876	397,629	195,980
District 5			
Avoyelles Parish	39,159	28,324	10,585
Caldwell Parish	9,810	7,970	1,760
Catahoula Parish	11,065	8,136	2,874
Concordia Parish	20,828	13,164	7,596
East Carroll Parish	9,709	3,355	6,291
Evangeline Parish	6,405	5,776	613
Franklin Parish	22,387	15,278	7,040
Grant Parish	17,526	14,860	2,540
Jackson Parish	15,705	11,065	4,589
La Salle Parish	13,662	12,271	1,257
Lincoln Parish	41,745	24,620	16,590
Madison Parish	12,463	4,961	7,415
Morehouse Parish	31,938	18,584	13,263

Parish Population by Congressional District—Continued

Total Population and 1994 Registered Voters

Census Unit	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 4			
Allen Parish	4,794	4,114	663
Beauregard Parish	16,481	14,255	2,125
Bienville Parish	9,883	5,606	4,270
Bossier Parish	39,519	33,037	6,146
Caddo Parish	123,515	81,992	40,524
Claiborne Parish	9,228	5,348	3,871
De Soto Parish	14,403	8,429	5,489
Natchitoches Parish	20,534	13,096	7,146
Red River Parish	5,997	3,848	2,144
Sabine Parish	13,586	11,310	2,206
Vernon Parish	20,275	17,723	2,135
Webster Parish	21,437	15,273	6,157
Total District 4	299,652	214,031	82,876
District 5			
Avoyelles Parish	23,253	17,472	5,729
Caldwell Parish	6,397	5,357	1,031
Catahoula Parish	7,573	5,738	1,822
Concordia Parish	12,063	7,868	4,184
East Carroll Parish	5,774	2,303	3,436
Evangeline Parish	4,234	3,858	371
Franklin Parish	13,240	9,682	3,549
Grant Parish	10,566	9,015	1,523
Jackson Parish	9,297	6,663	2,620
La Salle Parish	10,185	8,748	1,324
Lincoln Parish	20,477	12,814	7,450
Madison Parish	7,834	3,597	4,207
Morehouse Parish	17,008	10,816	6,178

Parish Population by Congressional District—Continued

Total Population and 1994 Registered Voters

Census Unit	Total Pop.	Total White	Total Black
District 5—Continued			
Ouachita Parish	142,191	96,870	44,096
Rapides Parish	131,556	92,989	36,805
Richland Parish	20,629	13,020	7,539
Tensas Parish	7,103	3,292	3,785
Union Parish	20,690	14,850	5,767
West Carroll Parish	12,093	9,997	2,020
Winn Parish	16,269	11,343	4,798
Total District 5	602,933	410,725	187,223
District 6			
Ascension Parish	37,135	33,649	3,161
East Baton Rouge Parish	380,105	240,614	132,328
East Feliciana Parish	19,211	10,022	9,083
Iberville Parish	31,049	16,519	14,385
Livingston Parish	70,526	66,269	3,920
Pointe Coupee Parish	22,540	13,196	9,275
St. Helena Parish	9,874	4,725	5,127
West Baton Rouge Parish	19,419	12,329	6,993
West Feliciana Parish	12,915	5,672	7,149
Total District 6	602,774	402,995	191,421
District 7			
Acadia Parish	55,882	45,532	10,179
Allen Parish	14,176	10,259	3,524
Calcasieu Parish	168,134	128,181	38,445
Cameron Parish	9,260	8,685	503

Parish Population by Congressional District—Continued

Total Population and 1994 Registered Voters

Census Unit	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 5—Continued			
Ouachita Parish	70,344	51,233	18,890
Rapides Parish	68,931	51,287	17,105
Richland Parish	11,586	7,835	3,726
Tensas Parish	4,50	2,217	2,283
Union Parish	12,816	9,449	3,347
West Carroll Parish	6,808	5,809	986
Winn Parish	10,293	7,658	2,618
Total District 5	333,182	239,419	92,379
District 6			
Ascension Parish	21,626	20,151	1,402
East Baton Rouge Parish	199,491	139,379	58,868
East Feliciana Parish	10,844	6,129	3,804
Iberville Parish	20,020	10,953	9,058
Livingston Parish	40,589	38,303	2,232
Pointe Coupee Parish	14,550	8,899	5,644
St. Helena Parish	7,834	3,831	3,996
West Baton Rouge Parish	11,645	7,473	4,154
West Feliciana Parish	5,808	3,442	2,349
Total District 6	332,407	238,560	91,507
District 7			
Acadia Parish	32,718	26,875	5,817
Allen Parish	8,177	6,126	1,896
Calcasieu Parish	84,484	66,510	17,423
Cameron Parish	6,125	5,776	342

Parish Population by Congressional District – Continued

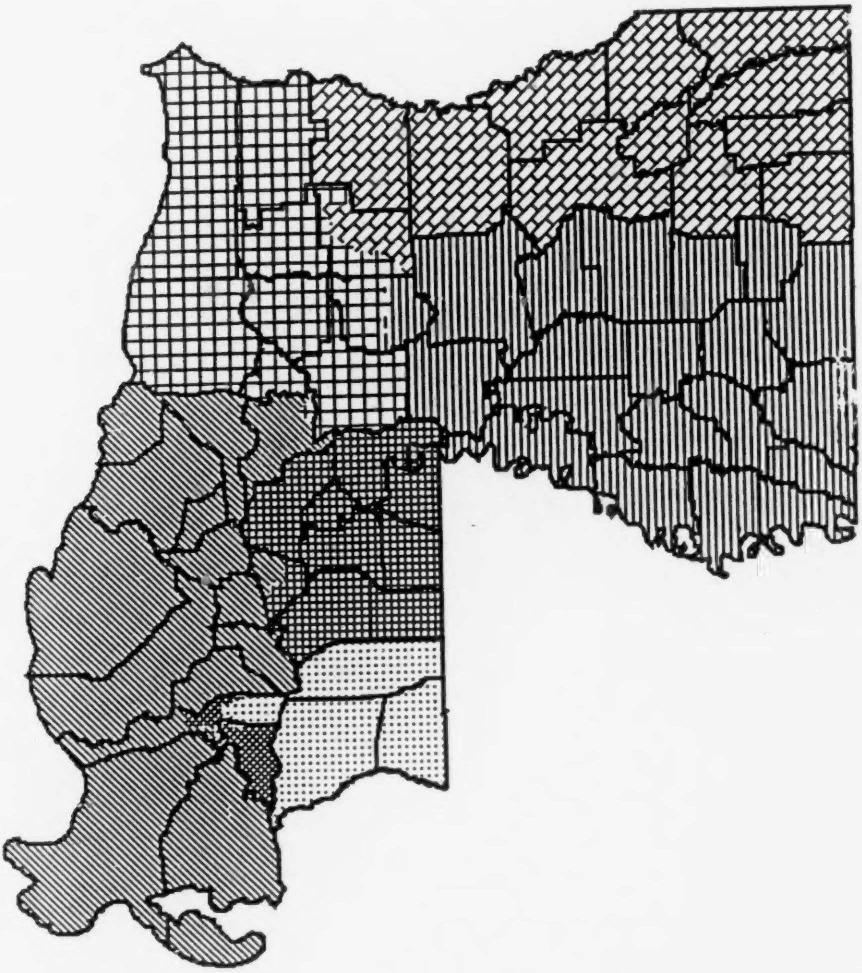
Total Population and 1994 Registered Voters

Census Unit	Total Pop.	Total White	Total Black
District 7 – Continued			
Evangeline Parish	26,869	18,629	8,088
Jefferson Davis Parish	30,722	24,721	5,836
Lafayette Parish	164,762	125,340	36,846
St. Landry Parish	80,331	47,532	32,392
St. Martin Parish	2,641	1,762	868
Vermilion Parish	50,055	42,237	6,956
Total District 7	602,832	452,878	143,637

Parish Population by Congressional District—Continued

Total Population and 1994 Registered Voters

Census Unit	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 7—Continued			
Evangeline Parish	17,546	12,336	5,193
Jefferson Davis Parish	17,704	14,562	3,116
Lafayette Parish	89,258	70,268	18,467
St. Landry Parish	48,634	28,873	19,638
St. Martin Parish	1,498	1,021	474
Vermilion Parish	30,285	26,236	3,963
Total District 7	336,429	258,583	76,329



UNITED STATES OF AMERICA
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

NO. CV 92-1522

RAY HAYS, ET AL

versus

STATE OF LOUISIANA, ET AL

Proceedings had before the Honorable Jacques L. Wiener, Jr. and the Honorable John M. Shaw and the Honorable Donald Walter, United States Judges, in Shreveport, Louisiana, beginning on the 26th day of August, 1992.

* * * * *

[233] Witness: Edward Adams

A. First of all, I want to make it clear that I am not opposed to black majority, or minority/majority districts. The district that I am in in the state legislature when it was redistricted was a black district, and a black candidate, Ms. Wilkerson, won that race. And I worked very diligently for her. I'm concerned as a citizen about the future of our state and black people in the state. The race that David Duke ran last year scared me really bad and it showed me some of the attitudes of the people in Louisiana. And when this district came up showing that in order to have a majority black district we would end up with five super white districts, it really freightened me. [234] It freightened me simply because of the fact that the last election was evident that, you know, we could not have that kind of polarization and that kind of effort in the state that would really hamper everybody in the state, and really bring us to a kind of confrontational attitude. And I feel like, you know, if we do not have enough black representation in the districts to at least make a difference, to at least make someone accountable, that we eventually as black people in this state would come to that confrontational attitude.

* * * * *

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

RAY HAYS, ET AL, PLAINTIFFS

versus

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

Proceeding held in the above matter on the 21st day of July, 1994. Morning Session.

* * * * *

[2] Witness: Glenn Koepp

Q. Mr. Koepp, please state your name and address for the record, please.

A. Glenn Koepp. 963 Keed Avenue, Baton Rouge, Louisiana.

Q. And by whom are you employed?

A. Louisiana Senate.

Q. In what capacity?

A. I'm the assistant secretary of the Senate. Along with that goes the Director of the Legislative Bureau as well as—I'm in charge of all redistricting activities and have been for the Senate since 1981. I've been with the special projects to draft legislation with the general administration of Senate activities.

Q. You testified in the prior hearing in this matter?

A. That's correct.

Q. Okay. You're involved in the past congressional reapportionments dealing with Act 42 and Act One; is that correct?

A. That is correct.

Q. Would you just briefly summarize what your goal in those processes were?

A. Well, like I said, in charge of the staff of the redistricting process. I am an attorney. One of the things that – of course it really starts in the mid years when we [3] worked with the Census Bureau in under Public Law 94-171 to start collecting the data and putting forth the lines or the boundaries that the Census Bureau will take census numbers on and basically precincts in Louisiana, visible precinct boundaries, work with the Census Bureau in doing that and establishing that.

I work with the development and implementation of the computer system that we have and I'm in charge of the staff. I have researchers and other people. We actually do, and I do, at the computer draft and draw redistricting plans. Once we get a plan at some legislator request I actually draft that into bill language and prepare it for introduction.

I staff the committee, work with the committee as well as with each of the individual senators in any request they have regarding redistricting.

* * * * *

[4] Q. In your capacity with the Senate were you the one who drew the plan that ultimately became Act One?

A. I am the one who drew that plan, yes.

Q. Could you explain to the Court your process, how you went about drawing it.

A. Well, really starting back at the beginning, when I testified before in this Court with regard to Act 42, I drew Act 42. At the time that we drew that Act we really, and as I said in this court before, really believed we had the [5] affirmative duty to create a minority district if we could without regard to the way it looked. We did that in Act 42. After that round of redistricting was over and of course the suit was filed in this Court as well as the North Carolina case, the Shelby Reno case decided and this court found Act 42 unconstitutional.

From that point, I guess in December when that came down, very soon after that, the first week of January, a number of the senators got very active in making requests and coming to me to see what we could do about creating a new congressional plan that would meet the Court requirements, this Court as well as—and in talking with the members of the Senate we always understood and believed that any plan that we passed, first of all had to go through the Justice Department Section 53 clearance and then it had to be submitted to this Court and this Court had an opportunity to look at it and say whether we had met their standards before we could actually qualify and qualifying, of course, starts next Wednesday. This was in early January.

One of the other major criteria that played a part in this is, of course, Louisiana passed a constitutional amendment last year that changed how we do regular sessions. And in the regular session this year we could not put up or introduce any bills dealing with redistricting, so we looked [6] at time frames very quickly in order for the legislature to have the opportunity to do its job in the redistricting process, approving plans, have it submitted to the Justice Department, have the time under Seciton 53 clearance to run, and then have this Court an opportunity to look at it before qualifying, we knew we had to do something fairly early. And I think that's why leadership on the Senate in particularly charged me with the responsibility to start drafting plans to work with anyone that came in and not only the senators themselves but anyone from the general public who requested it with the senators to start drawing options and plans. I started doing that. Probably drew 200 to 300 plans during that time.

There was some, I guess a lot of discussion during that period about what the Hays case meant. And a lot of confusion on some people's parts and not on others. There was a discussion of whether or not the case said you couldn't create two minority districts, whether it said you could create two minority districts, and I think the general opinion came out and my opinion was that this case and this Court didn't say you cannot have two minority districts in Louisiana nor did it say you had to have two minority districts, but it did set down some guidelines for redistricting. We started looking at that.

One of the things that was rather interesting in that [7] process at the time and a lot of senators really believed that this Court said don't take a district from Baton Rouge to Shreveport. And my first instructions really were from most of them don't go to Shreveport if you create a second minority district.

Out of the plans that we created I don't believe there was but a limited number of requests that didn't create the minority district in Orleans and maintained that minority district. There were numerous plans that were in different forms only created that same minority district, not a second one in the state. Attempts at human regionality as they find it, north-south line and trying or attempting not to cross that.

As this process unfolded we have a lot of outside people who participated, certainly the congressmen were working and meeting together trying to come up with a proposal that they thought they could get support on. The Louisiana Black Caucus certainly was doing that. There was an organization out of Atlanta that submitted data to us and plans. But the problems started occurring because there was no consensus anywhere. And as we continued to go with that leadership was getting pretty concerned that if we didn't have something done before the special session—before the regular session, that the legislature would be left out of the redistricting process which is basically their job to [8] do.

And with that in mind, with looking at the various groups that played in this I started working somewhat independently on my own but with directions from numerous senators in trying to come up with a plan that would meet this Court's requirements, that would do as little disruption as possible to the present districts and the incumbents in those districts, and that could possibly get consensus of the legislature and be passed.

Q. Let me interrupt you. What about the preclearance by the Justice Department in compliance of Section two?

A. Absolutely. We knew as soon as we adopted the plan and the Governor signed it we had to submit it to the Justice Department for preclearance and we were—I think if you will look at the testimony of the committee on both sides we really felt that not only did we have to get preclearance from the Justice Department in what we did but we had to also have that plan looked at by this Court and have their evaluation of that plan in light of the Shaw and their previous decision in this case. And I took all that into consideration.

When you start looking at the State of Louisiana there were several factors that I started looking at in attempting to come up with this particular plan, or at the time no particular plan. But when you look at the issues dealing [9] with religion and with rural versus the city where you have factories and manufacturing versus farming and that sort of stuff, you're drawing plans that are contained within a parish, even maybe house districts, it becomes a much easier task to do that than to divide the State of Louisiana up into seven congressional districts of approximately

603,000 people per district. Just about any way that you draw 603,000 people you cross just about – you include in that district people from every ethnic background, race background, and religious background, something that you really couldn't put together in blocks.

One of the traditional break downs or boundaries in Louisiana historically, we've always been talking about north and south. The north something being above Avoyelles, above the Acadiana area. It would take Concordia, Catahoula, across to Rapides and then Allen and Beauregard. If you consider that line north would be North Louisiana and below that line would be basically South Louisiana. The problem with that distinction is, of course, the Florida parishes which is more like North Louisiana but its below the line. And the legislature a number of years ago adopted an act and created parishes that are basically south of that line and west of the Mississippi bridge. The Mississippi area would be in Acadiana, the French Catholic influenced area of the state.

[10] When I started looking at all of this data one of the things that – if you look at what has happened in Louisiana since the '60's, population shifts have definitely occurred in the state and those population shifts seem to go to the south. There's less population each time in the north in the districts. If you look at the districting it moves south.

Of course, we all know that one of the big problems this time was when we had eight congressional districts it was easier to draw the state into eight than it was seven. Louisiana gained approximately 25,000 over the last ten years but it wasn't anywhere close to the national average so we lost a congressman. So as part of this we were going to seven congressmen. That increased each congressional district about 75,000 people more than the idea was in 1980 from about 525,000. When you took that 603,000, and draw the line across North Louisiana, and I was asked to do that by several people and create two North Louisiana districts, there's not enough population up there to completely create two districts. You have to move into Avoyelles or Evangeline or down into I guess Calcasieu or one of those along the line picking up 30 to 40,000 additional people. And that has to be done in order to meet that one man, one vote criteria where, of course, in congressional plans there is really no diversion between districts. You can't have a [11] large disparity between the number of people per district. So to start with we had to break that tradition.

The second thing is even if you break that tradition that creates a split parish. Then what you've got left in North Louisiana – I was never able to create a plan and didn't see any plans that came along created by anyone else that were all whole parishes in North Louisiana. Even if you add that in and create two districts up North you have to split some parish. And those splits are caused by the one man, one vote criteria. One of the big factors that started to play in this was I was asked to look at the old Eighth District, the old Eighth District being the highest minority population district in the state other than the minority district number two in Orleans and see what I could do to go off that creating a district and what the different districts would fall in line to after that. And I went back, not just to the 1981 congressional plan, but back to the beginning of 1970 or late '60's legislation –

Q. Let me interrupt you at this point and show you this State Exhibit 10.

* * * * *

[12] Q. When you're talking about how you went back and looked at the old plans what – are those the ones you're talking about?

A. Well, I was collecting as much information as could possibly be collected in the total process. One of the things—have to digress slightly.

One of the things that I was highly concerned with in Act 42 was the Sixth Congressional District and not the Fourth because as I said before, I really felt that we did have an affirmative duty at that time, which the Courts have certainly changed or have cleared that questioin up let's say. But the Sixth District in Act 42 caused me quite a bit of concern because it's in two pieces and it's a very, very thin, thin line that connects it, if you will.

And that concerned me from the terms of gerrymandering, just straight up gerrymandering. Not racial gerrymandering. Gerrymandering and particularly political gerrymandering. And that district was a result of—that was a republican district that we ended up putting two incumbent republicans at the time in. That was done by a predominantly democratic legislature. I really had concern for that.

[13] We started seeing plans that were sent down to us even by the now seven congressmen, and it's three republicans and four democrats out of that group. They still were trying to draw this sort of a—I really had concern about it. That really prompted me to go back and start looking very closely at past congressional districts and what they looked like.

One of the things that jumped out at me was—well, there were two things that really jumped out in early plans. One was how the old Eighth District went all the way from St. John Parish in the southeast all the way up to Natchitoches and Sabine in the North. The other thing that was significant about that plan was that I believe it was the Fifth District then that encompassed the northeast part of the state and then came down through Concordia Parish where Concordia and West Feliciana and turned and went across the Florida Parishes all the way to say Hammond. And I remember when that congressmen ran from those districts, I've lived in the Florida Parishes all my life.

But when I started looking at that and started designing whole precincts and whole parishes as I went up using that sort of old plan to do the Sixth District, instead of squeezing it out to a thin line, it became as we were doing that, as I was doing that, it became evident that there was a fairly significant number of minorities that were in that part of that old district that goes up the Red [14] River.

As I drew it—there was a lot of considerations we were trying to make at the time. One was prior to this when we did Act 42 we literally went through every little town, city, or village, and if it had more than two precincts we did segregate the district by race. We put the minority districts, the black precincts in the minority district and the whites in the other one to up that minority population.

And this plan—I did a lot of this in particular as we were developing it, worked very hard at least in the rural areas in the municipalities, the small towns, of not splitting them at all regardless, in keeping them together. We worked to keep parishes together and keep them as whole as possible.

One of the things historically that will jump out at you in that 1970 congressional plan, and I only went back to the '70 time because that's really when the one man, one vote criteria came in. We did very little changing prior to that all the way back to the early 1900's. One man, one vote really didn't apply. And, of course, we didn't have the voting rights act at that time so I did limit my inquiry to about the plan of 1968 that the legislation in '68 drew forward.

Even in that legislation the parish of Natchitoches and I believe Winn were split and between what was in the corner [15] then of the old Fourth and the Eighth and the

Fifth District came down and split St. Tammany Parish and took a little portion of the northern portion of St. Tammany Parish, which, of course, joined it with the major portion of that district being up in the Monroe area. So to split parishes has been something that we've done.

Certainly if you go forward with that historically Orleans Parish was split almost down the middle and Jefferson Parish. And I think that was a political decision made many years ago and had nothing to do with race but had to do with political influence or whatever and it split Orleans and Jefferson.

The first time you ever saw Orleans really come together was in 1981 when Orleans Parish itself was more than enough population to have a whole congressional district, you couldn't even have a whole Parish. And we took out at that time—the split remained a portion of Orleans that was not needed and stayed in the First District but the rest of Orleans was put in.

The result of 1990 with the Orleans area, Orleans Parish actually lost population. They went from some 550,000 I believe—559,000 to about 498,000. So they lost some 50,000 in the parish as a whole and then added to the fact that you went to seven congressmen you had to add and get that total number back up to 603,000, there was no way [16] to make Orleans a single district anymore and that drove part of the process that created the First District the first time and the Second District. The Second District is different in this plan than it was last time. Yes, it does split some areas in here.

Some of the reasons for the way that plan is drawn on the West Bank of Orleans, one of the big driving forces was the City of Westwego where the Speaker of the House lives. He insisted that all of Westwego be maintained whole in one of the two districts. It ended up in the Second District.

There was some other factors that played in that. Congressman Jefferson, one of the committees he's on has to do with airports and he felt very strong and none of the other congressmen really objected, to make sure that the airports, Orleans airport, which, of course, is way out in Kenner was in his district and we did that this time. That was in Act 42 and it still remains that way. And that's some of the reasons the way that district was drawn, but we had to get outside of Orleans to create that one.

Once I started working with it, I came up and putting together parishes in the old Eighth, it got to be a district that was very close to a minority district.

JUDGE WALTER: I'm sorry, say that again.

A. With whole parishes of the old Eighth, it became that the preliminary plans were very close at that time to [17] creating a majority-minority district in that Eighth District. And at that time I was still working under the directions of—at all cost out of Shreveport or out of Coushatta.

I eventually drew this plan, went into Caddo and created—the plan became a minority district. Some of the guidelines that I was really looking at in producing this particular plan included your instructions on narrow tailoring. And as I read the decision and your discussion about narrow tailoring, one of the things is if you create that second minority district that as you go along, once you reach the compelling state interest in the creation of that Second District is the compelling state interest, once you reach that at a 55 percent, you stop. Certainly in Act 42

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[18] JUDGE WALTER: What is the compelling state interest?

THE WITNESS: I believe the compelling state interest in this case and why we needed to do what we could to create that second minority district had to do with, one, we had to get preclearance from Section Five Justice Department.

JUDGE WALTER: What's compelling about that?

THE WITNESS: That's the only way that our plan was going to be implemented because under the Voting Rights Act unless we get a letter of no objection from the Justice Department, then we cannot implement that plan.

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[20] JUDGE WALTER: So your compelling state interest is to get preclearance from the Justice Department. Anything else?

THE WITNESS: Well, as discussed, and I think some of the senators will talk about it here and maybe house members. Louisiana has a district of racial discrimination, that's been established. That's why we're covered by Section Five of the Voting Rights Act. That's why we have to preclear all of our plans. Everything that happens in this state has to be precleared including some of our judicial districts. That played a big part in why we—

JUDGE WALTER: I'm sorry. I don't understand. What wrong are you seeking to remedy with this?

THE WITNESS: Well, one of the things is our past history of racial discrimination. That's what the Voting Rights Act, as I understand, the Voting Rights Act was about.

JUDGE WALTER: Didn't the Voting Rights Act remedy racial discrimination in voting?

[21] THE WITNESS: No, sir.

JUDGE WALTER: It didn't?

THE WITNESS: What it did is it forced the states to perfect the remedy. It set the guidelines and if we don't meet those guidelines to remedy it—I mean, its still the State's burden or the Court's burden to pass a plan that meets and does not meet Section Two of the Voting Rights

Act as well as Section Five. There's two provisions in there.

Section Two, of course, applying to everyone and Section Five specifically applying to those states that in the past, historically, had actively by legislation and by state action discriminate.

JUDGE WALTER: So the compelling state interest was you wanted to remedy past discriminations in voting?

THE WITNESS: That's one.

JUDGE WALTER: Okay. Anything else?

JUDGE SHAW: Is there any evidence that past discrimination created congressional districts in Louisiana?

THE WITNESS: Yes, sir. Of course, in 1980, the plan created in 1980 by the legislature was [22] thrown out because the legislature refused to create that minority-majority district that's the Major V Treen case and implemented on plan.

Now, actually the plan they implemented in the Treen case was a plan that I had drawn that the legislature of the Senate adopted but because of some technical problems with it that the House did, the Governor had the opportunity to veto it, so it fell through and we created one that was later found unconstitutional. Even though that plan was precleared by the Justice Department, which gets us back to our problem with Section Two.

Even if we passed a plan that got through Justice approval under Section Five, if that plan violated Section Two, the State is still subject to litigation and litigation costs and to have that plan thrown out under Section Two. So all of those considerations, all of that was part of the consideration.

Another compelling state interest –

JUDGE WALTER: Wait a minute. How does Act One remedy past discrimination?

THE WITNESS: How does it remedy past discrimination? It gives minorities an opportunity [23] to elect two members to Congress and elect candidates of their choice in at least two districts in the State of Louisiana that they have never had before. And it does that it, it doesn't guarantee the election and maybe Act 42 did guarantee the election of that second minority. Act One only gives them the opportunity to do it and that is what I believe this Court was talking about in very narrow tailoring the plan and that's how we went after that.

JUDGE SHAW: But Act One—you took this map that's under the direction of members of the State legislature, you were not free to draw a map as you so desired; is that correct?

THE WITNESS: Actually I drew this as I so desired. The first name on this particular plan and the way it's put together carried my name.

JUDGE SHAW: I understand. But you were free to draw this on your own?

THE WITNESS: Yes, sir.

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[24] JUDGE SHAW: Did any other district cross a major river like the Mississippi?

THE WITNESS: The Third District crosses the Mississippi, the First District, the Second District, they all cross it. The Sixth District crosses it.

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THE WITNESS: It's very close to the same length from one end to the other as the 1978 [25] district was because it went well beyond down to St. John Parish, so—

JUDGE SHAW: Two things about the old Eighth District, two things that are different. One of them, we didn't have Shaw Versus Reno at that time, and two, it's never been tested constitutional anyway, so I don't know if it ever was a constitutional created district or not.

THE WITNESS: Yes, sir, Your Honor, I agree with that. The thing is we were trying to look at what was tradition in Louisiana, what is the history of how we did things, and that's how it started coming about.

And if I may, one or the other – I don't know if it's compelling state interest, but one of the other things that certainly has being discussed and talked about is the continuity or the continuing creation of districts where the major base of a district remains whole so that the incumbents have an opportunity to get reelected, if you will, or at least have a district to run from. It was not the only consideration but it was because of the – that discussion is certainly political but it has to do with, of course, as long as the attorneys and congressmen will have [26] power you have there and the more influence you have and the states that have congressman that have long terms seem to have more influence. So that also plays some part in this and one of the things that President of the Senate and other members from Senator Greene to Senator Brinkhaus and any of the black groups too, Senator Bagneris, that time wanted to do anything we could to make sure that there was no direct going after any of the any incumbent republicans. So that if we could draw a plan and do it in such a way that the incumbent republicans as well as the incumbent democrats could at least come to some kind of agreement, although they might not absolutely like it but would sign off on it.

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[27] JUDGE WALTER: We're going to have to – I can understand the problem. We're going to have to split some parishes because of the population but it's just a string of them from Shreveport down to Ascension Parish, from Caddo to Ascension, I don't know. It doesn't seem like – it looks like the district –

THE WITNESS: Your Honor, if I may address that. Yes, there are a lot of parishes split and there are houses split, but every one of those splits do not relate to creating a minority district. Most of those splits relate to getting the one man, one vote criteria down.

JUDGE SHAW: I did have a question, let me interrupt and then you can go ahead and explain all you want. Is there any way to put DeSoto and Caddo back up in the Fifth, make some adjustment with the Sixth, and shorten the length of this district and find enough black votes in a more [28] compact district without violating the one, man one vote?

THE WITNESS: Your Honor, there were other plans.

JUDGE SHAW: Keeping the same direction and everything.

THE WITNESS: Well, no, there's nothing that I know of to keep that same direction. There were some plans, one of which was rejected by the Senate that was presented on the Senate floor that maintained a second minority district and it didn't go any further than Alexandria or Lafayette. But one of the issues that certainly we were looking –

JUDGE WALTER: 60 miles from Alexandria to Lafayette?

THE WITNESS: Well, it went on down the river.

JUDGE WALTER: But what I'm saying is as far as going North to Caddo.

THE WITNESS: It did continue on down to St. John and I believe St. James parishes. So I don't know the total distance. I'm sure it would be somewhat shorter than this one was but to what degree.

[29] One of the criteria we looked at was the look of the district, how bizarre does it look. Those districts, if you will, had fingers or runs on them and if you compared them to this, they were somewhat bizarre and the

legislature and the leadership really wanted to stay away with that in any plan they adopted.

And when you really talk about looks, one of the things that the legislature talked about in the committee testimony, if you're drawing a plan of Kansas, you can make nice square districts because Kansas is as square as it can be. Every section has a road on it, it's a section line and they're square, the whole state. It's visible boundaries so the Census Bureau takes the population counts on them and so it's easier to draw basically real square and what you may interpret as compact districts.

In Louisiana there are very few non-visible straight lines. We've got rivers and streams, bayous, lakes, even the outside boundary of our state is very in and out. So to make a district that – I mean, we made a decision to do redistricting on a precinct level. A lot of states go down to the block level, but we stopped [30] at the precinct level. We did that because it cut down on the amount of voter confusion, it makes it a lot easier to determine whose district you're in and where you are because of the precinct you're in. And we believe it cuts down on the amount of suits involving election contests. So we used precincts, but precincts by definition of public law 94171 with the Census Bureau which we fully participate in require us to put those on visible boundaries. The only exception to that is when the boundary is coterminous with a city, coterminous and it's non-visible, coterminous with a parish is non-visible or the state line. So that played a part in some of the looks of how these looks.

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[31] JUDGE WALTER: Let me ask it again. You started off with the idea that whatever happens, I'm going to wind off – wind up with one man, one vote and two majority, minority congressional districts?

THE WITNESS: No, sir.

[32] JUDGE WALTER: That is not where you started?

THE WITNESS: No, sir.

JUDGE WALTER: That's what I've been hearing you say.

THE WITNESS: The second majority-minority district, once I got looking at that old Eight, it became evident that we couldn't do that. It creates a second minority-majority district and another major part that played in that was what's the result in the rest of the state with the other congressional districts. All of that played very much into it because you can create minority—a second minority district probably in about six different ways but it does all kinds of other disruptions in other places so all of that—

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[33] THE WITNESS: No, sir. If I said that, that's not what I meant. What we were doing was attempting to meet all of the criteria if, in fact, when I finished trying to draw that and there was no way to put together a minority district other than a very bizarre way or if you in the creation of a minority district it may derive serious gerrymandering in other areas, then I don't think—I know the legislature would not have adopted it, that type of plan.

JUDGE WIENER: Everything you have just said in this statement presupposes an effort to get a second majority-minority district.

THE WITNESS: That was one of the things we were doing.

JUDGE WIENER: That's all I asked you and that's all Judge Walter asked you.

JUDGE WALTER: So you started off with those two concepts; one man, one vote, two majority-minority?

JUDGE WIENER: Because of preclearance and the legislative passage?

THE WITNESS: Or the ability to prove that we couldn't do it.

[34] JUDGE WIENER: All right.That shows you started with it.

THE WITNESS: Yes. It wasn't just that you had to do it, you either had to show that you can do it and meet this Court's requirements as well as and have a second minority district or you couldn't do that.

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[35] JUDGE WIENER: If you were in Alice in Wonder Land and not realistic, if you were given the authority to draw these seven districts and said "You don't have to consider partisan politics one way or the other, incumbent politics one way or the other," would you have been able to draw a plan that included seven congressional districts, two of which were majority-minority districts that came substantially closer to meeting the traditional districting criteria than this?

THE WITNESS: I believe this is as close as you could have come on in that almost. I mean you may can clean up a couple lines as far as whole parishes go.

JUDGE WIENER: My memory of your testimony last year I thought I remembered you saying that [36] if you could disregard that, that you could—of course, we were talking about the old '92 ethnic proportions but I thought that what you presented was more traditional than what this does in parishes, to distance, and narratives, compactness and so forth?

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[37] THE WITNESS: Yes, sir, that is correct. You could not do that. In fact, that significant minority population occurred in the Caddo area. There's another thing when we're talking about the population shift of the state and I

don't know if y'all were going to talk about this, but if you look at what occurred in this state over the last 20 years with regard to majority-minority population, minorities have concentrated, they've come off of the farms and little areas and concentrated in cities and municipalities and they were much more concentrated in the 1990 census than they were in the 1980 census.

I don't think we could have created this plan using 1980 data or population data because they weren't concentrated, they were more disbursed throughout the state. But in the last 10 years, it's been quite concentration. I think it's every [38] year in Shreveport where the population percentage year increases significantly. The city itself is very close to 50-50. The city of Orleans in 1980 was about 50-50 now it's almost 60 percent.

JUDGE SHAW: Shreveport is closer to 50-50?

THE WITNESS: Yes, sir, I believe that's correct.

JUDGE SHAW: Well, years ago it was 35-65.

THE WITNESS: Yes, sir. So it's the minority concentration are in municipal areas and in the towns and cities and out of totally dispersion within the population across the state and rural areas. So that played a part in creating that Second District, I think.

JUDGE WALTER: Let me ask this. So are you telling me that because of the demographics in the State of Louisiana there is no way to meet the dispersion of the jingles or gingles, whatever it is tests that simply put they aren't sufficient. The black population in this state is spread out so far that they don't constitute a group numerous and compact enough to meet the traditional standards of—

THE WITNESS: No, sir. What I said was in 1980—I don't think if you look at the 1980 [39] census I think what has happened is they are much more concentrated and together in compact areas so that you can meet the jingles criteria of a district and that's what this is an attempt to do.

JUDGE WALTER: And it carves out black portions of Shreveport, Lafayette, Alexandria, and Baton Rouge and you consider that compact?

THE WITNESS: It carves out—in Shreveport it does do that to make it continuous. In the Alexandria area there's a lot more than that than just the minority areas. East Baton Rouge is a minority area.

JUDGE WALTER: And Lafayette?

THE WITNESS: In Lafayette too. Although if you look there are some high, high black precincts that are very right on the edge of that district in East Baton Rouge Parish, for example. The city of Baker which is almost all white is in the Fourth District in the minority district, yet there are some predominately in heavy, heavy black precincts right along the border area that are in the Sixth Congressional District.

So it was the balancing, the narrow tailoring and the one man, one vote criteria. And the hardest part of this probably is the creation [40] once you get the base down is to come back and work a whole state in and get every district within 100 people or less and that's what we tried to do. So that one man, one vote equal population plays a big part after you get the base.

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[42] But the House Bill 2 is an example of what happens if you stay out of the Shreveport area and still attempt to create a minority district and you can do some tradeoffs. You can trade off the south end and go up the Mississippi River, of course, to Monroe or up to Monroe then across over to Grambling. Those sort of things but it still comes, I guess in my eyes, more much bizarre than this one and this one is routed in the fact that it follows to a great

extent what we have done in the past.

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Q. Mr. Koepp, in evaulating or in preparing to draft a reapportion plans is it safe to say that you have to consider race in preparing districts in order to assure that you're in compliance with Section Two of the Voting Rights Act?

A. I think you have to do that. One of the things you could say.

Q. Okay. You mentioned earlier about a type of plans that you saw and the ones that created the two north Louisiana districts. Did you look at those in light of what effect they had, for example, on incumbents?

A. The biggest disruption that the plans do with regard to creating two districts in the north part of the state [43] because we have lost a congressman from ten years ago from '87 and the shift in population further to the south added to, of course, the increased size of the districts, it has quite a significant impact. If you'll look at the different ones you've drawn, it does have a significant impact on the old – the way the incumbents, old districts worked and changes.

I guess the only districts that have somewhat the same look and feel to them are the two in North Louisiana because the other five in South Louisiana get really stirred up and it's a political, I think, question a lot of times and what areas is going to get stirred and what isn't.

Q. You talked about what you did in drawing up the plans. The particular plan that you drew that actually became Act One, once you came up with the concept, how did that proceed in a project process to become an act; what happened after you got the plan, how was it presented and etc.?

A. The mood, I guess, the legislature was in at the time no one could come up with any plan that they felt either would meet this Court's—that they could get a sufficient number of votes on to pass that would meet this Court's criteria and criteria on the Supreme Court case as well as get the Justice Department. You didn't have any real consensus within the legislature and there was a lot of worry, I think, on the part of leadership that they were [44] never going to get to the point where they could actually do what they feel like was their duty and responsibility and that is to adopt legal appropriate congressional districts.

When I came up with this concept and I know there was a lot of controversy and there was a lot of statements that this was done by a congressman but I did this and kept it under wrap. When I came up with this concept and it looked like this would work, this would work as far as the political ramification of the state and the congressman that you could have both democrats, republicans, minorities, majorities, that could sign off and work on this plan together and come up with a consensus that I believed met this Court's requirements, once that was done I called the President of the Senate. I told him I had come up with

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[45] and variations. Several senators, probably three or four of them, most of which came up and sat with me or my staff to do that, but Senator Chabert can draw it on his own, spending lots of night hours up there doing it. And he came up right about the time and I showed it to him and at the same time I was actually inputting some plans that were being sent from Washington by the congressmen at the request of Brinkhaus. All seven of them supposedly were meeting up there and I was in contact back and forth with them in putting their plan in.

As I stated earlier that plan still to me was objectionable because of the way it's treating Sixth District. You just really—it's quite a bizarre district, nothing to do with race or that. Senator Chabert actually faxed a copy and a map of this plan to Washington to I believe Congressman Tauzin and from that point by the next day the congressmen had dropped their plan and they all started talking about this one.

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[46] I talked to four of the congressmen, I believe. I talked to congressman Tauzin, Baker, Hayes, and Jefferson. I may have talked to Congressman Fields, but congressman Tauzin was kind of a spokesman for the group and he accepted the responsibility of getting in touch with Congressman McQuery in Livingston. My understanding was they all did talk with the Governor. There was reports in the paper and it's my understanding was that they all agreed. Although they didn't necessarily like everything about it, they agreed to support this particular proposal. I think Congressman Fields was the only one out of the group who would not publicly support it or go out for it, but the other seven did and said they would do their part as far as [47] trying to help get it passed through the legislature.

The leadership on both sides endorsed it. And as a

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Q. And the plan that ended up passing was essentially your plan except for differences in Lafayette and St. Landry; is that correct?

A. Main differences were in, yes, St. Landry area. Basically that had to do with Congresman Hayes putting more area, trying to carry those together as a whole with the city down there and also to put as many minorities that were historically in Congressman Hayes' district back in his district. So there were swaps that were made between

Lafayette, St. Landry and Evangeline and that's what that was all about. Those cuts were made mainly to try to put as much of Congressman Hayes' district back in that area, back in his district and into what we call tweaking (sic) or work to get those districts back to one man, one vote. So, yes, that's what occurred.

There were some—well, there were some significant changes in the House from what we passed out of the Senate and the Senate bill was amended and the amendments that occurred then—there were two things. Sabine Parish was moved into the Seventh and basically all of Evangeline was [48] put into the Fourth and the second set of amendments which really ended up causing all the controversy and forced the last one and compromised to go back the way this is had to do with Congressman Fields got—I don't know if it was him, but there were some amendments that were put on in the Senate, the result of which was to put the home where former Congressman Holoway lived in the Sixth District, to move him out of the Fourth and put him into the Sixth.

When I drew the plan I was aware of where Congressman Holoway lived and only because when we did it before under Act 42 Congressman—not Holoway, Congressman Baker. Congressman Baker ended up his house ended up in the Fourth Congressional District in that 42. I did not know that until we did it, but that's the only reason I'm very aware of where his home was because he called and Congressman Fields and Congressman Jefferson said make sure whatever you do, get his house in his district. I was not aware where Congressman Holoway lived, the city precinct or anything. Of course, I knew it was in Rapides down somewhere in the area down around Forrest Hill. The result of those amendments really made it just real thin because the Sixth District went way into this and it was just a little thin line that came around the west and south part of Rapides in the Sixth and again started getting those thin ribbons and making the district more bizarre. It was part [49] of the consideration of House to put it back like this. That was about the only changes.

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saw it. Nobody had saw this concept before. It started looking like somethig that made a lot of sense and took care of a lot more than just simply creating a second minority district. It did a lot of other things with regard to politics and making other districts in the state look right. So to say that they actually endorsed it, I wouldn't

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[50] Q. Let me ask you, finally, did you testify before the House and the Senate committees about this plan?

A. Yes, I did.

Q. And essentially what you've related to the Court is what you told members of the committee?

A. I believe what I've said here today is pretty much exactly the same thing.

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[57] Q. Now, in the creation of the districting alternative [58] available in the state of Louisiana, is it fair to say that if you recognize the Acadiana region and you create in that region from Avoyelles down a district based on whole parishes that you can create a district in that region that's going to have 40 to 45 percent minority population and not do serious damage to parish lines; is that fair to say?

A. I don't believe you could do that without crossing into east Baton Rouge Parish and picking up that minority population.

Q. Including –

A. To get it up to that 45 percent.

Q. Population?

A. Minority population, you've got to pick that major black population concentration in East Baton Rouge Parish.

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[60] Q. So as far as having to construct districts that would honor the regionality of the state, does that appear to maintain the regionality of North Louisiana?

A. To the absolute destruction of south Louisiana.

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[67] Q. Was the one that you spoke about earlier do you believe was the Ewing-Bankston Plan that you're talking about?

A. Yes.

Q. Would it include more region of the state in the Ewing-Bankston plan that used to be in what we refer to as the old, not the most recently passed Eighth District, the 1980s Eighth District?

A. Well, I guess because it went to portions of Rapides and it went up and down the river into East Baton Rouge and so, yes.

Q. It's would be closer to a refinement of the old Eighth in the 80s than your plan, than the District Four; isn't that correct?

A. It would be, but it would also be bizarre looking. So that's what part of the problem with that plan why it didn't pass the legislature. If Congressman Fields had his choice he would have taken that plan because he would have wanted anything he could get more concentrated down in that area. Several people did, but they were very concerned about the fact that even though it was there, still the way it was done they were areas that just had where you literally went in with the intent and purpose all over the edges to take in [68] white—take in minority precincts and put out majority precincts.

Q. Is it fair to say it had the same type of construction drawing in dividing precincts between races that you had characterized as the methodology used to do Act 42 originally?

A. Pretty much.

Q. But if it had a redeeming factor it was that that activity was done far more within an identifiable region with the State of Louisiana?

A. Okay, yes.

Q. If you don't construct in that manner, what would be—you've drawn an awful lot of plans in the state of Louisiana obviously. Is it fair to say you've drawn more plans than anyone else in the State of Louisiana?

A. I would think so.

Q. So you've got an awful lot of knowledge about different places, how to cut the apple a different way?

A. Yes.

Q. Is it fair to say that in recognizing and maintaining whole parishes and whole cities that your choices in the range of plans that you've seen is that you can get a plan in the Acadiana region that honors city and parish lines and the minority population will be 43, 45 percent or you can begin dividing parishes, dividing cities and move that [69] number on up to the 55 level represented by the Ewing-Bankston proposal?

A. Roy, I really believe if you keep it at the—I'm sorry, Paul. I think that it stays more in the 40, 30 to 40 percent minority until you start really splitting your parishes and then the more you split, the more you juggle it and you get it up to the 55.

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[72] JUDGE SHAW: Let me ask you something. To create this district, which has 602,000 people, you go to Shreveport and you cut out 82,000 black citizens or 33,000 black registered voters, then you go down to Baton Rouge 250 miles away and take out 180—cut out 108,000 blacks or 38,000 registered voters or technically 100,000, let's just round it off, black votes in the district of Third to 300,000 black votes, is there any problem with cutting those out of two cities at two different ends of the district to create this district by taking all those votes out at 250 miles apart and then filling in in the middle; is that any problem with compactness or whatever? You didn't have any problem with that?

THE WITNESS: I didn't.

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[73] Q. If you're not going to construct the district so that you place the minority citizens of Caddo Parish in this district, is there any reason in constructing the district as a minority-majority district, is there any reason once you're not going to Caddo to go ahead and go to Sabine or DeSota Parish?

Do they add to the benefit of constructing the majority-minority district or do they just add population? If you would—if you're not going to Caddo Parish—

A. Okay.

Q. Is there then any reason to extend this district beyond Rapides Parish?

A. There is Red River, Bienville, certainly Claiborne has significant minority populations in them and going up that direction you trap some population and DeSota has a significant minority population. Sabine does not.

If you were—in the first time that I did this, the [74] first attempt didn't go to Caddo, it stopped. It did take in all of Red River, all of Bienville, I believe, a southern portion Claiborne and maybe the Grambling area out of Lincoln.

Q. Now, you've said Claiborne a couple times, Claiborne is way up here, we don't mean Claiborne?

A. Yes, we do. You go all of Bienville, all of Red River, then all of Bienville, the southern portion of Claiborne and the Grambling area of Lincoln, but it didn't quite get to that 55 percent.

JUDGE WIENER: What is the magic of that?

A. In looking at the Court's—in this Court's discussion about narrow tailoring and the plan, if you going to create a minority district where minorities have an opportunity to elect a candidate of their choice, 55 seems to be the number that the legislature certainly believes in the literature and they believe the Court's been saying that 55 percent needs to get to that point in order to be a minority district.

JUDGE SHAW: We said that too?

A. It seems like you did in that case or somewhere I had—when you discuss narrow tailoring and the way I understood it, Your Honor, was that once we got to that threshold, that met our overriding state interest if in fact we have overriding state interest as you said and beyond [75] that was excessive, so we picked that 55 and tried to stop there.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

NO. CV-92-15222S

RAY HAYS, ET AL, PLAINTIFFS

versus

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

The above-entitled proceedings were had before Judges Walter, Weiner, and Shaw in the United States District Court for the Western District of Louisiana, Shreveport Division, on the 21st day of July, 1994. Afternoon Session.

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[3] Witness: Glenn Koepp

A. I really do not. Any time you've got 55 percent registered voters in any district in Louisiana, the opportunity to elect a candidate of choice, you really lose that ratio, district racial block voting in the past. We got one Senate district, it is right on 55. It is actually 55.

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A. Senator Bankston's Senate district now and it has a 55 percent minority population in it and he was the white candidate in that race against a black [4] candidate and he won it.

* * * * *

[5] Q. Okay. I think Judge Shaw talked to you about the concentration of the minorities in Shreveport and the concentration of the minorities in Baton Rouge, about 100,000 or whatever; and I don't know if this district connects those two populations. What about the area between those populations, are those—does that have a significant concentration of minority rather than the rest of the area?

A. That whole area up the Red River from Baton Rouge across over to Lafayette and St. Landry Parish has a high concentration of minorities as well as up the Red River; and it is not just—those two areas, if they were right next to each other and were joined themselves still wouldn't be a sufficient population to create a minority district or any [6] congressional district. You would have to add an additional population to it and that population is added between Baton Rouge going up to Caddo Parish does that and it is a significant minority population there.

Q. One final question. That Senate Bill 6, we talked about it not splitting up south Louisiana. As far as the political viability of that district and plan, what can you tell us?

A. Well, first of all, this plan reduced minority districts that's been in existence for at least ten years in Orleans Parish to some degree or the numbers I just read out at 50 percent and without question, I believe that is—would be a retrogression; and I don't think the legislature would even consider that, any side, because they were asking about a lawsuit to get it thrown out. It politically does things that you wouldn't have got a majority in the Senate. I don't think you could have got a majority in the House to vote for it, but certainly not in the Senate.

Q. What about insofar as incumbents? Does that put incumbents against each other?

A. One of the things that does that and down in the southern part of the state it seems that we [7] have two incumbents in the Jefferson, Lafourche, and Terrebone area which would be Livingston and Congressman Tauzin. In the Fourth District in the middle, you would have two. You would have both Baker and Congressman Fields. The Orleans one, you would have a single down there. The congressman of Jefferson would no longer be a minority district. The Sixth District would not have an incumbent. The Northeast District would not have an incumbent. Northwest District including the Caddo area, of course, have incumbents—Congressman McCreary and, of course, the southwest Lafayette would have an incumbent there. So, it does pit—in two different places, it pits two incumbents against each other.

Q. And is this a plan that would have—had it been the plan going forward to create a consensus, do you think we would have had a special session?

A. I don't think you would have ever got enough consensus out of the leadership and the government to ever call a session if this was the only thing that was on the table. And as I talked about earlier, that was the biggest concern was leadership, was tryng to find something that was acceptable enough that the legislature thought they had a reasonable opportunity to pass and at the same [8] time it would meet the requirements of the Voting Rights Act as well as the requirements that this Court had set down to the guidelines we had to follow; and actually this plan didn't do that. This type plan and a lot of them like this for lots of reasons, particularly in political area, disruptions it does to those traditional areas. I don't think the plan stood a chance.

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the 55 percent number came from. Do you consider a

55 percent district to be a superpacked district?

A. Certainly not. 55 percent were common

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[13] Witness: Richard Engstrom

Q. Dr. Engstrom, you testified in the previous proceedings; is that right?

A. Yes, both in 1992 and 1993.

MR. JEROME: Your Honor, because Dr. Engstrom has tesified before, I would dispense with the expertise of the witness.

MR. HURD: No objection, Your Honor.

Q. (By Mr. Jerome) Dr. Engstrom, did you prepare a report of this case?

A. Yes, I did. I prepared a report that is in the form of a declaration.

Q. Did you also prepare a variety of charts for the State in this case?

[14] A. Yes, I did.

MR. JEROME: May I approach the witness?

JUDGE WALTER: You may.

Q. (By Mr. Jerome) Dr. Engstrom, can you just look at Exhibit 13 of the State's exhibits and tell me whether that is your declaration?

A. Yes, it is.

Q. And what was the subjects or areas of inquiries you examined in this report?

A. The report examines two contentions made by the plaintiff, plaintiffs in this case. The first being that District Four in Act One, a district that is 55 percent in voter registration, 54.41, I believe, in voting age population African American, is a packed district, a district in which African American voters will dominate elections. In other words, a district in which there are too many African American voters. And a second contention they make which is that districts in Louisiana that range from about 35 percent to 45 percent, what they call black citizens, will provide a realistic chance for African Americans to elect African American candidates.

Q. And on the first question whether District Four is packed or has too many black voters in it, [15] how did you go about analyzing that question?

A. I examined both congressional elections, all of those in which there have been choices between African Americans and white candidates this century to my knowledge since the adoption of the Voting Rights Act and also state legislative elections.

Q. Are elections in which there are both black and white candidates relevant elections to examine for this inquiry?

A. Well, I think yes. If you are asking about the extent to which voting is vertically polarized, how much cohesion crossover, how much it takes in order to have a viable opportunity, then I think we need to look at elections involving biracial choices of candidates. Indeed, I think it is well established that biracial elections are the most probative for these purposes.

Q. Why did you choose congressional and state legislative races as far as types of races?

A. Congressional, of course, is litigation involves election system for electing members of the United States Congress. So, congressional elections are the elections to the office at issue. In addition, state legislative elections, I believe, are the most relevant, what we call exogenous [16] elections, meaning elections to another office; but they are the elections to which we elect representatives to the legislative body at the next level of government. So, I supplemented it with a look at state legislative elections, the last in 1991 with the new districting plan following the 1990 census.

Q. And starting with the congresstional races that you looked at, what were the results of your analysis and summary?

A. Well, I think we can say, first of all, I believe undisputed that no African American candidate has been elected to congress this century from Louisiana in a district that had a majority white voter registration. All of the African Americans that have been elected have been elected from districts that have African American voter majority registration. Even that in and of itself has not proven to be sufficient. Simply having an African American majority does not necessarily result in the election dominance and election of candidates of choice.

Q. When was a candidate of choice of African American voters first elected in this century in Louisiana?

[17] A. First time an African American was elected to United States Congress from this state was only four years ago in 1990 when William Jefferson was elected from what was at that time Congressional District Two based in the New Orleans area.

Q. What was the voter registration at the time of the election in that district?

A. At this time, Congressional District Two which was the majority African American district created following the Major versus Treen decision was as of the primary election in 1990, 59.9 percent African American, basically 60 percent.

Q. And then in 1992 when Mr. Jefferson ran for reelection in District Two, what happened then?

A. The voter registration in the new Congressional District Two which followed Act 42 on the basis of the 1992 election was a little above 60 percent, 60.2 in voter registration as of that primary.

Q. And in 1992, a second black candidate was elected to congress as well?

A. Yes, in 1992 the second black person was elected from Louisiana to the U.S. House and that was Cleo Fields who was elected from District Four established under Act 42 and and the basis of other [18] 1992 elections.

Q. What was the registration, black registration rate at the time of the election?

A. As of the primary election in 1992 in Congressional District Four, it was 63.3 percent African American.

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[19] JUDGE WALTER: I assume that he will say in his conclusion that 55 percent is not way too little. 55 percent is certainly not packed. There is no way that 55 percent is really on the cuff and that 35 percent is nearly enough.

THE WITNESS: I would say 35 to 45 percent. I don't believe given the electoral history of this state would provide a realistic chance for an African American to be elected.

JUDGE SHAW: We will not seriously entertain any cross-examination to the contrary of those two points. We are convinced already. You can

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[27] Witness: Dr. Sam Hillard

Q. How are you employed?

A. At the moment, I am retired.

A. Retired from what?

A. I was professor of geography at Louisiana State University for 23 years, and I retired last December.

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[28] Q. I see. And during your tenure at L.S.U., did you ever serve as chair of the Georgraphy Department?

A. The tenure chair is three years. I served two terms as chair.

Q. When you were at L.S.U., what courses did you teach?

A. I taught World Regional Geography, and then I taught seminars. I taught a course in the Geography of the South; and then I later towards the end of my career, I taught the Geography of Louisiana.

Q. How long did you teach the Geography of Louisiana?

A. About eight years.

Q. Have you published in the field of geography specifically relating to the geography of Louisiana?

A. I published on the South and Louisiana, I published a book on Louisiana and several articles on Louisiana.

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[29] MR. MULROY: I tender the witness as an expert in the area of geography of Louisiana.

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[30] Q. (By Mr. Mulroy) Dr. Hillard, how can you divide Louisiana into regions?

A. Well, you can do it any number of ways. The more traditional way is to resort to the physical environment.

Q. The more traditional way to do it would be to do it in physical geography, right?

A. Plant forms would be the most obvious and then going onto other things. But you could also divide it into regions based on culture, based on language. There are a number of maps that are done that way, but also religion and also industry, economics, any kind of thing like that.

Q. Also include agricultural factors?

A. Of course, yes.

Q. What is your evaluation of the ease or difficulty defining these kinds of regions within Louisiana?

A. They are easy to look at; but as one person said, they are easy to establish but difficult to define. Regions are very difficult because we have trouble coming up with universal agreements; and the reason that is the regions almost have to be defined [31] to use criteria and when you do that, sometimes you use more than one criteria. So, they rarely coincide. You end up with regions that are fuzzy around the edges.

Q. With respect specifically to cultural regions in the last several decades, the period of time after World War II, have those cultural regions within Louisiana become more distinct, less distinct? Have they stayed relatively the same?

A. My opinion is they have become less distinct through time.

Q. Can you give me an example of that?

A. Well, for example, the most important or the most widely recognized cultural regions in Louisiana is what we call the North/South contrast, the Anglo North versus the French South; and that perhaps if you could go back to the late nineteenth century was a very strong line. Many of the French people spoke French. So, it was very, very obvious; but with modern transportation and migration, people are simply more mobile than ever before. You find Cajuns in Shreveport, and you'll find Anglos all over Bayou Teche. So, we have sort of mixed ourselves a little bit more. And for that reason, I would argue it is more diminished.

* * * * *

[33] Q. Let me ask you about a few other different ways just very quickly about defining regions in Louisiana. They can be defined agriculturally either by focusing on production of single crop, all crops, [34] or either combination; is that correct?

A. That's correct.

Q. If you take an individual crop, for example, cotton or soybean, is production of that crop distributed throughout the state?

A. Almost no crops are distributed throughout the state. Cotton is very specific. Sugar cane is very, very specific, and so forth.

Q. Are there crops which are produced in different areas of the state?

A. Generally sugar cane is highly concentrated in the coastal area in Terrebone Parish and Lafourche and places like that.

Q. What about soybean?

A. Soybeans of the four major crops that I talk about in my classes, soybeans has the widest distribution. It is grown all the way from the Arkansas border down into rice country. It is the most widely distributed.

Q. Very quickly, just the same question for rice: Is that a crop that's grown in different parts of the State of Louisiana?

A. We normally think of rice as being concentrated in the prairies of the southwest but actually there is a strong rice region in Arkansas [35] and it extends into northeastern Louisiana and the area just northeast of Monroe.

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Q. Would it be possible to draw a single congressional district within Louisiana that covered all of the soybean production areas in the single district?

A. It would be possible to draw the district, but I don't know how many people would be contained.

[36] Q. Right. Consistent with one person, one voter?

A. I would suspect not.

Q. Getting into a slightly different topic, we have different maps, regions, and productions by the major crops of Louisiana. Do they overlap perfectly, or do they—

A. Nowhere near.

Q. So, would it be possible to draw a congressional district that had—strike that. If you were to draw districts based on various crops, they would not overlap with each other, correct?

A. Possibly two, certainly not three, and no way could you contain them all.

Q. What about industrial activity in specifically, let's take as an example Petro Chemicals. Where are Petro Chemicals an important part of the economy in the State of Louisiana?

A. Petro Chemicals are concentrated in the corridor. We talk about the corridor between Baton Rouge and New Orleans along the river, and that's where it is highest concentration. But it also occurs in the coastal areas. It occurs in the southwest around Lake Charles, and there is also a considerable amount of activity in northwest [37] Louisiana.

Q. Also possible to draw a region through Louisiana based on natural factors such as soil, drainage, vegetation, or elevation?

A. Yes.

Q. Do these regions of Louisiana coincide perfectly with agriculture mapped regions or industrially mapped regions?

A. No, not at all. Well, possibly slightly; but not very closely.

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Q. Tell us something about the Red River valley?

A. The Red River Valley, the Red River, it forms the boundary between Oklahoma and Texas. Then it enters Louisiana and flows southeastward and eventually for a long time, the area was blocked by a [38] raft; but eventually, it gets into the area of flowing into the Atchafalaya

River and eventually into the Gulf of Mexico. It is an area that flows out of a kind of rock formation that is red, hence the name Red River Valley.

Q. Does this natural region, has it historically had an effect on Louisiana with respect to settlement patterns, agriculture, industry, things of that nature?

A. Oh, yes. The Red River, actually the first city located in Louisiana was not New Orleans. It was in the Red River. Natchitoches is the oldest; and, so, it became occupied very, very early in Louisiana history. It had a problem developing during the early years because the river was blocked by a huge log raft; but as soon as that was cleared out in the early nineteenth century, it became possible to ship goods down the Red River. So, it became a major artery of transportation rivaling that of the Mississippi itself.

Q. Same question for the present day realities of the region?

A. Well, I think that the Red River has maintained its importance. It was at one time a major artery of transportation, and, therefore, a [39] focus of economic activity; but as river traffic tended to incline, highways moved along the same areas, it is no accident that Louisiana, number one, travels along the Red River Valley indicating that it was an important artery of transportation.

Q. The various regions we have been discussing including specifically the Red River Valley but speaking generally about the agricultural, economic, and cultural regions that we have been discussing, do they generally follow parish boundaries?

A. No.

Q. To what extent would you say they do follow parish boundaries?

A. Let's just say it is random. They do not follow it.

Q. If you wanted to redistrict according to these regions of Louisiana, would it be difficult to following parish boundaries?

A. Yes.

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[41] Q. During what period of time was this map prepared?

A. Well, the second edition of his book was 1971. The earlier edition came out in the 1950's, and I think one of the problems is all of that came out before the Voting Rights Act, so this really reflects voting habits of white people.

Q. Could you give us a specific example of a region that's categorized in the way that fails to reflect the presence of blacks in the electorate?

A. Well, the one he lists as North Louisiana Planters, particularly the one on the parishes—I assume you are looking at the parishes that border the Mississippi River?

Q. Yes.

A. Those are North Louisiana Planter Parishes, in 1860 certainly or even 1900, certainly dominated by planters; but, of course, the population was a majority black. In fact, Tensas and Concordia in the 1860 census had over 90 percent black. It is not that high now. One would suspect that you can hardly characterize that as a North Louisiana planter today.

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[43] Q. All right. Let's focus specifically on Act One, please, Dr. Hillard. Have you had an opportunity, I believe you just said you had to compare Act One with prior congressional redistricting plans and alternatives?

A. Well, let's see. Act One is the seventh of the transparencies, yes.

Q. For purposes of our discussion of Act One, it might also make sense for you to refer to State Defense Exhibit 3 there. Based on your analysis, do you have an opinion about how Act One compares to the other plans you have just talked about in terms [44] of its correspondence to the various regions of Louisiana that we have been discussing?

A. Well, Act One is not a perfect fit with any one of them. It is not a perfect fit with any one of them. But on the other hand, neither are the others. I can find fault with all of them. But I would say that it satisfies my concept of regions better than most of them and certainly as good as any of them.

* * * * *

[45] Q. (By Mr. Mulroy) If we define traditional redistricting principles to include correspondence with the various regions of Louisiana we have been discussing and also include respect for parishes, and then we were to keep in mind that we have to satisfy the one person one vote department, based on that analysis, do you think that Act One does more violence to traditional redistricting principles than is reasonably necessary?

A. No.

JUDGE WALTER: Reasonably necessary to conform to just those three things?

MR. MULROY: Yes, Your Honor.

JUDGE WALTER: Just name the three again.

MR. MULROY: The various regions of Louisiana—

JUDGE WALTER: Okay.

MR. MULROY: —as defined in the various ways discussed in Government Exhibit A that we have been discussing. One person one vote, and as [46] a subset of regions of Louisiana. I also asked Dr. Hillard to consider parishes as another way.

JUDGE WALTER: Parish lines?

MR. MULROY: Parish lines.

JUDGE WALTER: And it is your testimony that Act One does the least amount of violence?

THE WITNESS: I didn't say that. It does no more violence.

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[47] Q. (By Mr. Mulroy) Let's talk a little bit more about the Red River Valley. In your opinion, is the Red River Region an important region within the State of Louisiana?

A. Yes.

Q. Could you explain why you think the Red River Region is important to the State of Louisiana?

A. Well, I have already stated previously that it was important as an artery and it has certain distinctive characteristics as far as agriculture and it has physical characteristics. In other words, it is an area that's long been recognized as important and distinct from the hills to the north and the [48] Acadiana to the south. So, I think in that sense, it is important; and that's one of the reasons why I thought the plan reflected the kind of fit that seemed to me to be appropriate.

Q. If you followed the Red River Valley, do you have to cross a lot of parish lines?

A. If you follow it closely, you have to cross it, yes. In fact, the river itself cuts through every parish except Bossier and Caddo. It separates those two.

Q. With that understanding and excluding any consideration of parish lines and just focusing on the various types of regions that we have been talking about within the State of Louisiana, do you believe that Act One does any more violence to those types of geographic regions than other plans that you have considered?

A. I would say no. Again, I repeat, though, I don't think it is a perfect fit; but it is as good as the others that I looked at from my perspective, yes.

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[49] THE WITNESS: It does not correspond exactly; but when I said Red River, I don't know whether I said it or not, but I implied the Red River Valley and the Red River Valley has had an influence that's actually wider than itself. For example, many parishes like DeSoto and Sabine.

JUDGE WALTER: But you're not straddling – you're not thinking of the boundary? You're thinking of the south side of the valley. What's wrong with the north side?

THE WITNESS: Well, it is part of the valley; but at least it recognizes this northeast/southwest region I have always regarded as being very important.

Q. (By Mr. Mulroy) But is there a correspondence between old District Eight and the area we are discussing?

A. Certainly. Certainly.

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[53] Q. (By Mr. Mulroy) Is there a correspondence between old District Eight, particularly the old District Eight from the 1971 plan and District Four in Act One?

A. Give me just a moment. The 1971 plan?

Q. Yes. That would be under Tab four of Exhibit 8, one of the transparencies.

A. Yes, there is a correspondence. They are not the same, but District Eight under the 1971-73 plan that I have goes all the way from the Texas border to Lake Pontchartrain; and it configures in the central part of this area on the Red River. But it actually moves over a little bit closer to the Mississippi River. There is a resemblance. Let's put is that way, strong resemblance.

* * * * *

[55] Let's talk about prior congressional plans if we could. .In general, have prior congressional plans within the State of Louisiana in the twentieth century, have they followed closely the types of regional boundaries that we have been discussing?

A. They followed them to some extent; but to say they followed it closely, I don't think is quite accurate (and in some cases, it's a deviated market.

Q. Has that deviation increased within recent decades?

A. I think probably so.

* * * * *

[56] Q. (By Mr. Mulroy) What factors in your opinion would have been driving this decreasing correspondence with natural regions in Louisiana within the last few decades?

A. Well, I think that rural urban migration was a very, very important factor. Secondly, I think that interstate migration of people from one place to another, the ease with which we move from one place to another and also the declining population in some areas. Things simply don't happen the way they once did. Their agriculture, for example, are extinct. We no longer have tongue oil in Louisiana. We only have two or three producers of tobacco. So, the things that we could call regions 50 years ago, they simply don't exist anymore.

Q. What about the one person one vote requirement? Does that have an effect?

A. Well, I would imagine it has. I can't imagine any other way. If you go from eight representatives down to seven, you automatically increase the amount of area covered by each representative and that would seem to be – once you make a district larger, you would have to increase [57] the heterogeneity in it. It would become less homogeneous.

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JUDGE WEINER: So, now you have the Metropolitan New Orleans Creoles; you have the Acadiana, French Catholic Acadians; you have the North Louisiana Scotch Irish Protestants; and the Red River Valley?

THE WITNESS: Well, may I say, those are ethnic or folk distinctions. I think those are diminishing, but when I was talking about the Red River corridor, I was thinking more in terms of economic or agricultural region rather than ethnic or folk region.

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[58] THE WITNESS: That would be straining the point; but, for example, the high water area in which certain coastal activity takes place, yes, that would have a certain—that's an economic region. A region is an area defined for a purpose. If you offer a definition, you create regions; and a region created by one person from a certain point of view would make no sense at all for another person creating a region with a different point of view. That's what makes it so difficult in my mind.

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[59] Q. Let's look at Overlay seven which overlays the same plan on a different type of region.

A. This is a map of the value of agriculture showing the richest areas in the state and the intermediate, and the poorest. It is the same overlay put over them. And, for example, District Five, one could say has the richest and the poorest agriculture in the entire state all within the same region.

Q. So, overall looking at the entire plan, what kind of correspondence do you see with agricultural regions?

A. I don't see any correspondence at all.

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[60] First of all, let's begin with District One. What correspondence, if any, do you see with regions within Louisiana and District One of Act One?

A. When I first looked at this, I was attracted to that area because in teaching the course over the years, I have been doing population graphs and things of that nature to show to the class; and St. Tammany Parish comes out as the fastest growing parish for the past three decades and maybe four decades. It is a tributary to New Orleans; and I think setting that aside as a different region, you might say represents the reality of the 1990's rather than some past period. I think that's an improvement over the previous one. Before, the Florida Parishes have always been considered a unit, a single unit. I would argue that the last 20 years with East Baton Rouge over in the west side and the St. Tammany Parish over in the east side, it is being split and drawn in two directions; but at the same time, fantastic economic growth, a lot of things are happening there.

Q. What's been driving this economic growth?

A. I think the proximity to New Orleans. There are lots of jobs, lots of money. There is limited space in New Orleans. It is just a nice place to go, [61] a nice place to live. It is growing. The school systems, for example, they have a hard time housing. It is really quite a phenomenal growth area. So, I was struck with that as being a good choice.

Q. What about District Three?

A. District Three, where?

Q. In the southern part of the state.

A. The southern part of the state. That's an area that has considerable unity to it in a variety of ways. First of all, coastal. Secondly, it has activities that are common throughout such as shrimping, fishing, and oystering. It is an area of intense oil production, and all of those are what I would regard as commonalities. Therefore, it does have a unit.

Q. We have discussed District Four. What about District Five at the northern part of the state?

A. District Five is the hill country. It is the hill country. It is an area that has a remarkable unity to it in terms of its physical geography that is really quite similar—its economic activities. It is an area of forestry, and it is not traditional plantation agriculture except in the far east. And insofar as ethnicity, we talk [62] about ethnicity, it is generally the area populated by southerners and mainly Scotch Irish. So, in that sense, it has a unity.

Q. Focusing on the general region of north Louisiana, in your opinion, is an east to west orientation for districts better or a north to south orientation; or is there as difference?

A. I like this one better because I think—

JUDGE WALTER: Which is that?

THE WITNESS: I like the east/west better; and my reasons for saying that are as I said earlier, if you do a north/south, you tend to—most of the ones that I saw tend to lump the huge plantation area over near the Mississippi with the hill country. Then they take the western part of the area which is hill country and lump it with others. So, it is not an important point; but in my opinion, my preference would be for this; and this has an added attraction in that it doesn't go straight east and west. It dips down to include parishes that have more in common with the hill country than they do with the Red River Valley.

* * * * *

[64] Q. We will just—I am sorry. Putting SB-6 aside for the time being and looking in Act One District Six

which includes the western half of the Florida Parishes, what correspondence, if any, do you see with regions of Louisiana with District Six?

A. That--the district is—ethnically it makes a good deal of sense because it is an area populated by Anglos. Perhaps the plantation area is a considerable variety; but when you look at it in terms of, and consider that Mississippi is there, if we could carry the data that we have for Louisiana into Mississippi, the area just say, up around Natchez is almost identical to Louisiana across the river. So, in that sense, I don't see much problem with it. I think it makes a good deal of sense. Besides, you have got the Florida Parishes down here. You have already taken the eastern part off. So, I thought it didn't do violence to my concept region.

* * * * *

[65] Q. Well, moving onto finally District Seven in Act One, what correspondence do you see, if any, with regions in Louisiana and District Seven?

A. District Seven, yes. That's the one that [66] almost all plans have in it. It is the southwestern prairies; and, I guess, if there is anything that Louisianaians agree on is that there is a region over there. This one is fairly close to what you see in others, and I think pretty well reflects the perceptions in Louisiana. Of course, you know, it splits the Acadiana in two. Most of them do that. You have an eastern area. That is Three. I think this fits very well because it is not only a French area; and in that sense has the unity, but it is also a pretty fine rice production. It is flat. It is the area of early oil production. There is a tremendous amount of manufacturing over there fabricating off-shore platforms. So, that makes all kinds of sense to me. At first glance, I thought maybe putting Vernon and Beauregard Parishes in there might be a little much; but you have got to realize when you talk about functions, they are hinterlands of Lake Charles. So, it is very likely that people in Beauregard Parish when they go to shop, they go to Lake Charles. So, that makes it sort of a unified region.

Q. One of the questions about District Four in addition to the other types of commonalities within the Red River system that we, region that we were [67] discussing, is there also a band of black population concentration along that route?

A. Today and historically because remember that was intense cotton production during the nineteenth century; and it still, yes, that population still resides there.

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[71] Q. In terms of natural features of the State of Louisiana, how important is the Red River Region?

A. It is second to the Mississippi. I think historically, you have to say that those are the two [72] most important waterways, arteries, and have been the focus of a lot of activity.

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[74] JUDGE WALTER: The northeast will always be large, right?

[75] THE WITNESS: Well, in Act One, it is not.

JUDGE WALTER: The district that encompasses Northeast Louisiana is divided there?

THE WITNESS: That's right.

JUDGE WALTER: And you don't think that from the Mississippi to the Texas line is large?

THE WITNESS: It is large, yes; but it has less variation in it than, say, District Five of HB-5, much less area.

Q. (By Mr. Mulroy) Could you explain quickly about District Six in Act One, what commonalities there are in terms of Louisiana regions in District Six and even F-1?

A. Commonalities?

Q. Yes.

A. Well, it is an Anglo area almost exclusively. It is an area that was settled very, very early. And as I say by Anglos. It is, it's an area that good portions of it forestry is an important activity. That's about it.

Q. From the perspective of combining similar Louisiana regions, does it make sense for District Six in Act One to combine the western part of the Florida Parishes with the rest of that district?

[76] A. West Feliciana is normally considered a historical plantation parish and as such could easily be involved with Concordia and Tensas. In that sense, yes, part of the Mississippi system.

Q. Is it the case that District Five and District Six in Act One split the northeast part of the state?

A. I don't follow you. You mean split it in the sense that—in what sense?

Q. When I refer to the northeast part of the state, I simply mean looking at the state without respect to any kind of Louisiana regions. If you just look in the northeast corner, there is a diagonal line that divided that northeast sector of the state between District Five and District Six.

A. Yeah.

Q. Does that type of division make sense in respect of respecting Louisiana regions?

A. Well, I thought it was a little bit—was better than if you use a north/south because you are taking the hill country and pretty much lumping it together. The only—it includes a little bit of the plantation area like east Carroll Parishes; but the others, of course, tend to be linked in the area further south. So, it splits it in a way that's not [77] too wide. I think perhaps fairly close.

JUDGE WALTER: Would you look at the Justice Department's Exhibit 2?

THE WITNESS: I don't have one by that label. Is it a plan like HB?

JUDGE WALTER: Hand this to him.

THE WITNESS: This would be black population.

JUDGE WALTER: And District Six is Anglo? That's what I wrote down you said.

THE WITNESS: Well, District Six on this?

JUDGE WALTER: Yes.

THE WITNESS: It was settled by Anglo people as part of the Anglo heritage in Louisiana but –

JUDGE WALTER: Yeah. Thanks.

THE WITNESS: But I don't understand.

JUDGE WALTER: Well, you said District Six was primarily Anglo.

THE WITNESS: I am sorry.

JUDGE WALTER: It didn't look like that to me.

THE WITNESS: May I clarify that?

JUDGE WALTER: Yes, sir.

[78] THE WITNESS: I meant Anglo as opposed to French. Talk about Anglo Louisiana and when we talk about Anglo Louisiana, we include Anglo white and also English speaking black. When we talk about French speaking Louisiana, we also include French speaking black.

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[84] Q. (By Mr. Mulroy) Just in general, have you looked over all the alternative plans?

A. Yes.

Q. Did you find any alternative plan that in [85] your opinion was significanly better in terms of corresponding with the Louisiana regions that we have discussed?

A. No.

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[89] Q. Is it fair to say they are not highly, all the plans that you have looked at are not highly distinguishable as one shining beyond the others? Is that a fair—

A. Well, I think some of them most of which—well, some of them are, clearly violate; but you can pick any one—

[90] JUDGE WALTER: Clearly violate?

THE WITNESS: Clearly violate what we have talked about in this room as being regional constructs, following traditional regions; but some of them seem to be better than others. And I think that Act One would fall under that category. That is, it is one of several that are considerably better than the others.

Q. (By Mr. Hurd) Is one of the characteristics of Act One that you particularly like the way that it does treat this northern section of the state?

A. Well, I think I have said that the thing that attracted me, the two things that attractd me most to Act One is the way the Florida parishes were treated and also the recognition of what I call the Red River corridor and those seem to me to reflect, oh, say the twentieth century and modern, what I would call functional regions, economic regions.

Q. So, this criticism in the northeast section is not a major concern whether it is split or not split?

A. I would say it is less of a concern, less of a concern to me.

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[92] Q. Okay. So, you are still—is it fair to say that what really attracts you then is to the value of having Red River Valley treated as a distinct district and the way it treated I want to say St. Tammany and the Floridas?

A. Yes.

Q. That's perhaps the shining part?

A. Those were the two that jumped out at me as being perhaps, if you are going to change things, that may be a nice way to do it, recognizing the future.

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[97] Q. (By Mr. Hurd) Do you have any opinion as to whether or not there is a correlation between the racial composition in that area and the constructioin that you observed in developing District Four?

A. Well, could I say that in my study of the historical population in the south, that area shows up as a fairly high population of minorities. Historically it is diminished a little in the past, but I wouldn't be surprised if there were not large numbers of minority scattered all along the Red River. I would be surprised if it were otherwise.

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[102] Witness: Senator Dennis Bagneris

Q. Senator Bagneris, please give us your name and address for the record, please.

A. Senator Dennis Raymond Bagneris, Sr. I reside at 4415 Franklin Street, New Orleans, Louisiana.

Q. How long have you lived in Louisiana?

[103] A. All my life.

Q. Okay. You are a State Senator from—

A. State Senator for District Three in New Orleans.

Q. Okay. And how long have you been in the Senate?

A. This is my eleventh session that I have completed. I was elected in October, 1983; and I have served since 1984.

Q. And have you served as chairman of any committees in the Senate?

A. Yes, I have. I served as chairman of the Senator Governmental Committee. I served as chairman of the GA Committee and probably a few more I am forgetting.

Q. Senator Governmental Affairs, is that the committee that would get the reapportionment bills?

A. That's correct. I was chairman of the

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[105] Q. Okay. You touched briefly on this. Would you specifiy what criteria you used or intended to have that the Senate used in putting together your bills?

A. Sure. Looking at the criticisms which were left with the last map, I wanted to make sure that we didn't do what we did the last time as far as going in and just scooping up a number of African Americans in the state and combining them into a district. I told Mr. Koepp that I suggest to you that you use a district which is somewhat traditional in this data and gave him the Eighth Congressional District as one he might look at, not knowing exactly what was going to come out of that; but knowing there was a lot of traditional there in the district. I believe that I even asked the staff a map of the most recent eight congressional district. I don't think that the district that was drawn for another Senator used the new eight. I think he used the old eight, but I know my information to him was to use the new eight district. He brought back a map to me and the percentages were such that they were about, I believe, not quite 52 or something like that. I looked at the [106] map and considered the Voter Rights Act. In section two and in section five, I said: Well, it appears to me that this district can remain compact and have a community of interest and you look at the predictors that are there and I think we can get the district up so that it does appear that a second African American district can be drawn. The district that was then returned to me that was presented in committee was about 59 percent in population, African American population. That district was reduced later by the Senate on the floor amended by committee. So, that the district that was presented was less than 59 percent. It was closer to 55, 56, somewhere in that neighborhood.

Q. You mentioned compliance with the Voting Rights Act. Were you aware of the requirements of both section five and section two of Voting Rights Act when you were engaged in this process?

A. Yeah, section two deals with trying to level the playing field and making sure that there is an opportunity to have a minority candidate of choice elected in section five which is maybe a more controversial section challenged by, from what I understand, a lot of constitutional challenges which deals with an area reserved more towards the state as [107] far as making sure the election laws, voting requirements were such that that level of playing field was there. But the last time I checked, it had not been overruled by the Supreme Court.

Q. By the compliance in section two, what factors do you recall that you look at when you put together a reapportionment plan to be sure you comply with section two?

A. Well, we look at the Jingles case and there is a three prong test that's used and what we look at is whether or not it is sufficiently large enough in geography, whether or not the minorities in that district tend to have a political cohesiveness, and whether or not the white block vote can thwart the intentions of the minority vote.

Q. When you were in the process, during this process, did you conclude that under Jingles, the state would have to draw, come up with a reapportionment plan with two minority majority regions?

A. Yes. Understand when I did that, that was

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[108] Q. Okay. In drafting a plan or considering a plan, incumbency, considerations of incumbency come into play?

A. Not until the plan got to the Senate floor. On the floor, there was an indication that in trying to gather votes in, count votes that there were a number of house members who were concerned about congressman Hays and how he was being treated in the Lafayette, St. Landry

Parish area. The plan was [109] amended because there was an indication that there was a block vote that was common or had a certain commonality to the voters that were already in representative Hays' district. I don't believe they had ever been recommended by Congressman Hays; but evidently according to MOA patterns and the facts, it was majority block of white voters. That plan was amended to consider his incumbency.

Q. What about your idea of discrimination?

A. As I stated earlier, I did not want to make the same mistakes that had been made with the earlier plan. So, in reading Hays' decision, we realized that in addition to looking at common interests and whether or not there was political boundaries and geographic boundaries being respected along with a level playing field, there needed to be attention going to whether or not there was no lack of compelling state interest and making sure that there was racial fairness; and I think given this state's history, operation discrimination, that there is, in fact, a variety of compelling state interest.

Q. And did you move to describe what you see as this, the history that of discrimination that the state needs to correct by enacting two minority district plans?

[110] A. Well, we always look at certain indicators; and I think that when you look at the high level of unemployment among African American population and the low level of education that's being received as well as the political tendency to vote along racial lines, I think that you can say there is still a lot of racial discrimination in this state. In fact, it scares me when I think that a former leader of the Klu Klux Klan was second in voter confidence for the governor of this state is concerned. I don't have to look too far to ask the question as to whether or not there is still racial discrimination in this state. I have a brother who ran for judgeship last year, and basically

there was only three people in the race—my brother, a black male; a black female; and a white male. He didn't campaign. He didn't spend any money, and he finished second in the race and got almost 75, 80 percent of the white vote.

JUDGE WALTER: How would assuring a second black congressman or relatively assuring cure that, cure bad education or cure poor economics? How will that do that?

THE WITNESS: Well, I think, Your Honor, that maybe somebody a lot more eloquent than [111] I, Martin Luther King, who gave us the balanced speech indicated that if you give us the ballot and we will be able to elect our own representatives, we will cure the racism of the past.

JUDGE WALTER: Not to say Dr. King so eloquently put it in the content of their heads and hearts, not the color of their skins. What I am getting at now, you tell me that a compelling state interest in assuring the election of a person of a particular race in this case will somehow cure racism and poverty and lack of education; and I am asking you how?

THE WITNESS: No, Your Honor, I didn't say that it guarantees electing an African American.

JUDGE WALTER: It increases the probability?

THE WITNESS: No. It empowers the minority in this state to elect the candidate of their choice whether that person be Hispanic, black, or white, the person that greatly shares their interest.

JUDGE WALTER: How will that cure the compelling state interest in having the better education and a fairer share of the economic pie? How will empouring an additional, how will empouring to use your term—I would rather use mine, helping [112] to ensure the election of a second black in the Senate, how will that cure those two terrible problems?

THE WITNESS: It doesn't. Maybe I am not being clear, judge; but it doesn't have to ensure electing a second black. It only has to ensure that a community which has been deprived can elect their person of choice to either a Senate seat, a judge seat, city council seat.

JUDGE WALTER: One problem on the plate at a time. Congress is what I am looking at now. I don't understand how Act One will cure the problems that you have, the real problems that you have enumerated as your interest in enacting Act One. I don't see how it is going to help do it.

THE WITNESS: Well—

JUDGE WALTER: Tell me how?

THE WITNESS: I thought I was. There have been tremendous strides since they have been able to get the Vote Amendment 15. Today I am a Senator in the Louisiana State Senate. I don't think that anybody when I was growing up would have ever dreamed I would be helping to make the laws.

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[113] THE WITNESS: No, I don't think so. I think that the Voting Rights Act helped to create a level playing field. It helped to make sure we had opportunity, but I don't think that it made anything sure.

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THE WITNESS: And we used all the guidelines that we were given by this Court to draw [114] a district. And we thought that we complied with what your guidelines and if I am interpreting them correctly. Yes, you can consider racial fairness; but you cannot ignore the geographical and political make-up of the land. You cannot ignore parishes. You cannot ignore commonality. You cannot ignore compactness. I thought we included all this in our consideration and presented what we were by law required to do in reapportion, and I think that we did an excellent job.

JUDGE WALTER: I guess I am really doing a bad job, but you understand you have got to explain it to me. I do not understand the compelling state interest of Act One.

THE WITNESS: Well—

JUDGE WALTER: Tell me what it is?

THE WITNESS: The compelling state interest is to—

JUDGE WALTER: Excuse me. That we are going to cure with that?

THE WITNESS: All right. It is to right the wrongs of the past. You have asked me how does Act One help with this. I think that's what the sticking point is, assuming there were wrongs done in the past. I don't think that if we had black [115] legislators in the 1960's that I as a child would have ever had to walk up to a water fountain that said for colored only. I don't think if we would have had African American legislators in the 1960's that there would have ever been a sign that said: Coloreds can't go past this point. I think because of the progress we have had in the political system and because we have been able to increase our voice in the minority, that's what helped cure these absurdities of the past.

JUDGE WALTER: Aren't those carefully—well, we have done away with the legal segregation as far as I know of any kind; but now we are talking about this act to produce these results. Are you telling me that because of the terrible history of the, most of the 200 years of the republic, that office is owed to people because of the color of their skin?

THE WITNESS: No, sir. I don't have to go back 200 years to tell you that there has been discrimination in this state and continues to be discrimination in this state, that the political cohesiveness of the minority population in this state is what's helped to remedy a lot of the discrimination in this state.

[116] JUDGE WALTER: Yes, sir, but legal discrimination. We are talking about legal discrimination. I am asking about Act One because that's all I am looking at. I mean, that's all that's on our plate. I guess I am being obtuse, but I don't understand how Act one is going to right past wrongs.

THE WITNESS: I can't think of another way to answer the question, judge, other than the way I have already answered.

JUDGE WALTER: Meaning to say because of what happened?

THE WITNESS: No, because the minority population can continue to be empowered. They can better able play on a level playing field when it comes to politics, economics, social interests, educational interests. The African American population in this district that has drawn have a commonality of interest when it comes to education for their kids, when it comes for the type of health care their kids receive; and if they can go to a person who shares their interests whether that person is white, Hispanics, Vietnamese, or whatever, they have an opportunity.

JUDGE WALTER: It is not the color of [117] the skin; it is the interest?

THE WITNESS: I don't disagree with that, judge. I am saying to you that the percentages and the political cohesiveness help to ensure the candidate of choice regardless as to color of that candidate's skin and gives the community an opportunity to evolve because they have access.

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Q. (By Mr. Mongrue) Okay. I think you mentioned earlier also that you had mentioned the Eighth District and

The preservation. You were concerned about the preservation of the historical districts in the state. Was that a consideration that was given to in drawing the plan?

A. Yes, absolutely. We tried to start, have a starting point which was traditional in nature; and certainly when I looked at a map of the Eighth Congressional District which was represented by Congressman Long, it certainly did go from the [118] northern part of the state with that west to east swing all the way, I think, into Lake Ponchartrain.

Q. Okay. And the plan that you introduced, Senate Bill 3 is not adopted. Actually Senate Bill 1 was passed. Would you tell us what the difference was between your plan and the one that was actually adopted?

A. My plan I think I was a little concerned about the packing that the Hays' Court had referred to in keeping the percentage around 54. My original plan was close, I believe, to 59 percent; and the plan that was on the Senate vote was somewhere to around 55 which was as close as we could get to 54.

Q. And 55, in your experience as a politician in the state, at 55 pecent, do you think that created a safe district in which minorities will, it will assure the election of minorities; or is it a competitive district?

A. I think it is a competitive district. It allows a minority an opportunity once again to elect a candidate of that choice.

JUDGE SHAW: Where did that 4 percent go back to basically? Where did it come from, and where did it go to?

THE WITNESS: I believe the Lafayette [119] and St. Landry areas were included in the amendment to take care of the incumbency concerns of Congressman Hays mainly reduced the percentage because most of that population was white population. There was some other shifting in my plan. Sabine Parish, I think, was also removed; and that changed some of the percentages around. The plan was amended in committee and then again on the Senate floor and the amendments changed the make-up of my plan from 59 to about 55 percent.

JUDGE SHAW: Are you saying there are sufficient areas in St. Landry where you could draw higher percent of the blacks to put in the districts that are not in District Four now that are available nearby?

THE WITNESS: There were places along the Red River where we could have gone in deeper to increase the percentages of black, but what would have given us concerns about narrowly tailored. So, we decided not to do that.

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[125] Q: So, those consideration drove it from perhaps the statistical minimum of a majority minority district of another whatever 56 to 59 would be percent population; is that correct?

A: The 59 percent, and I wish I could tell you what the difference was in 3 percentage points after we put it to the floor, but I do know that Sabine was one of the reasons leaving it, you know, putting it out, reduced the percentage that was a black population in that parish. And I believe I had included it in my district in my act rather or my plan in the District Four which would be the second minority district; and I think taking that out as well as making the changes that we made in St. Landry and Lafayette reduced the percentages. Understand when you are constructing this, you are trying to put it together to get 20 votes as well.

Q: So, did the political necessities impact [126] the increase of the minority composition of this district from what would otherwise have been the 56 percent level up to the 58 or 59? Are those political interests that are causing that variation in the district?

A: The political necessities insofar as considering third party issues such as incumbency, yes.

Q: Was there an incumbency benefit from increasing the percentage minority in this area?

A: No, there was an incumbency benefit for decreasing benefits from Congressman Hays.

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[131] Q: Was that description of—well, is the relative geographic layout relevant to you in determining whether or not you believe this district is compact?

A: Yes, and the way I determine that is that one of the complaints that was given about 42 was that it was going to be near impossible for anybody to campaign in the district so large and so spread out. [132] So, I thought it made good sense to take a district that had already existed in Louisiana that had been represented by a caucasion congressman by the name of Gillis Long and use it kind of as a starting point since there was some tradition there already.

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Q: Thank You. Is it also true that an amendment was presented during the debate either in [133] the Senate committee or the Senate floor that included a majority minority district of 55 percent or larger that went no further north than Rapides?

A: That I don't recall.

Q: You don't recall a plan that was 55 or more percent registered voters that derived that construction in the region between Rapides Parish and would be St. Charles Parish?

A: No, I don't. I don't remember that.

Q: Are you familiar at all with a proposal that has been attributed to Senator Ewing and or Senator Bankston that would meet that description?

A: Oh, there was one that dealt with 55 percent population but not voter registration. See I tend to think in terms of voter registration. That might be where we are having the difficulty in communication. There was no plan that was presented that I recall in the Senate floor that were 55 percent black voter registration.

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[136] Q: What recommended the Eighth district to you as a discovery in the consequences of redistricting Louisiana?

A: It was recommended to me was that once the Act 42 was declared unconstitutional, we knew we had to start from a different standpoint. I thought that maybe the best way to do that was to take a look at some of the old maps and see how they were drawn. Once I looked at the Eighth Congressional District, I said: Hey, this is a good place to start.

Q: When that Eighth District first recommended itself to you, you were unconcerned with the creation of a second majority minority district; is that correct?

A: When the Eighth District recommended itself to me, I was as concerned about the creation of a minority district as I was about meeting the other court test.

Q: So, it was one of the material factors that you were considering in the Eigth District recommending itself to you?

A: It was a material factor. It was not the sole factor.

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[137] Q: You have indicated your interest in creating a majority minority district was one material factor that you considered. Were there legislators that had one material factor they were considering is that they wanted the Sixth District represented by a Republican to be 80 or 85 percent white?

A: There were many considerations by several legislators. Some wanted majority, supermajority white districts. Some wanted to make sure there were more districts in the north. Some wanted to make sure that we had an opportunity to elect more Republicans. The concerns of the legislators went down as small an interest like making sure Baton Rouge was contained all in one district.

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[140] JUDGE WALTER: What I am getting at is your compelling interest. I am trying to figure out what you think will happen as a result of Act One. I am concerned, it appears to me that when we do something like this, we ensure voting along racial lines. That forever as long as Act One lives, District Four will vote along racial lines. So, [141] you know, it is using separation to fight separation; and I am trying to understand: Why will this stop that? Tell me what good comes of it?

THE WITNESS: Well, judge, maybe I can answer it by telling you I have several colleagues who asked me a similar questions about: Why is it that we don't live a color-blind society? Why is it that we have this emphasis on race? My only response to them is: It seems though when we live in a color-blind society, the blacks are ignored, that blacks don't get promotions, that blacks don't get elected, that blacks don't get opportunities; and that is the answer that I have for you, that part of what happened happened in a society which did not consider race and now that we have a consideration, now that we have an opportunity to give a voice to the minority population, it ensures them at least an opportunity to put into power those persons that will share that interest.

JUDGE WALTER: You are not saying that whites aren't concerned with those very things, are you?

THE WITNESS: No, I am not saying that whites won't be elected by blacks.

JUDGE WALTER: You are not saying that [142] blacks won't be elected by whites?

THE WITNESS: Well, that hasn't happened in this state.

JUDGE WALTER: Give you Lake Charles in 1965—the at-large districting within the city of Lake Charles and one seventh of the city council was black. I mean, it doesn't happen often. I am not saying that, but it does happen. Don't say it never does.

THE WITNESS: If I indicated that, I apologize.

JUDGE WALTER: Carl Stewart from here, James Stewart from here, Paul Lynch from here to the judiciary. I mean, I can give you those. Tell me. What does Act One, where is it going to further us? What compelling state interest does this further?

THE WITNESS: I don't know if I can answer your question any different than I have, judge. There is and has been and continues to be racial discrimination in this state; and it is believed, we, the minority population, the African American population in this state—if I may speak as one of its representatives—that the way to overcome that is to put into power those persons who can best share an interest, help make the laws, [143] help enforce the laws. To me, it is simple and clear-cut; and evidently I haven't been able to close that line and answer it for you. But I can't use any different words than I have already used.

JUDGE WALTER: What bad things will flow from not having a second majority minority?

THE WITNESS: Well, the opposite. You have less of an opportunity. You have less of access. The playing field is less level. There have been those who have stated that influentials, so-called influential districts might be more to the advantage of minority population; and perhaps we are cutting our throats, our wrists when we created districts that are more majority minority. I think when you look at the affect and the success of those districts that have been referred to as influential districts have had, I would prefer to have a minority majority opportunity of election of choice of candidate or candidate of choice.

MR. MONGRUE: Can I follow up on that?

JUDGE WALTER: Yes. That's why I interrupted you, so you can follow up.

Q. (By Mr. Mongrue) You are from Orleans Parish; is that correct?

[144] A. That's correct.

Q. You are aware of the serious problems with crimes and drugs and poverty in inner city Orleans: Is that correct?

A. That's correct.

Q. And you have now a congressman from Orleans who is African American?

A. That's also correct.

Q. And can you maybe as Judge Walters just explained what that does to help improve the situation of the African American community in Orleans by having an African American congressman representing them?

A. Aside from the fact of just the role model and the fact you have a certain pride in somebody of the same ethnic make-up that you are has attained that high and prestigious goal, you also have an individual who has been able to secure funding for the City of Orleans that we have not had before, like we have not had before I should say, an individual who understands the importance of getting money to the educational system in Orleans, an individual who understands the importance of getting money back to help fight the crime. Presently the mayor of Orleans is under [145] consideration for, I think, about $100,000 as far as being able to hire more policemen; an individual who grew up in the community and understands and shares the interest and the needs of the African American community.

Q. Likewise, in the Red River boundaries, so to speak, where there is a community of interest of African Americans who suffer from poverty and crime and drugs, having a congressman represent them, wouldn't you think that that congressman just like all congressman will try to bring benefits to their district, would be able to bring such things as more money for the schools, health care, civil rights legislation? Wouldn't that –

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

RAY HAYS, ET AL, PLAINTIFFS

versus

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

Proceeding held in the above matter on the 22st day of July, 1994. Morning Session.

* * * * *

[3] Witness: Senator Armand Brinkhaus

Q. Good morning, Senator Brinkhaus. Would you please give your name and address for the record, please.

A. Armand J. Brinkhaus, Drawer E, 664 Napoleon, Sunset, Louisiana 70584.

Q. And you're a member of the State Senate?

A. Yes.

Q. How long have you been a member of the Louisiana Legislature?

A. Since 1968.

Q. Could you give us a brief background of how long you were in each body and what chairmanships you've held, etc.

A. In the House side I was there from '68 to '76. In '76 to date currently in the Senate. In the Senate side I have been chairman of education from '80 till a couple of three years ago where I then switched over to Chairman of Senate and Governmental Affairs, and just a number of other committees but those are relevant.

Q. The Senate Governmental Affairs Committee, is that the one that deals with reapportionment matters?

A. Yes, among others.

Q. And in the Second Special session this year in which [4] Act One was passed, were you the Chairman of the Senate and Governmental Affairs Committee at that time?

A. Yes, I was.

Q. And you obviously participated in the process of reviewing the legislation that was addressed?

A. Yes, sir.

Q. You also authored Senate Bill One which ultimately was passed as Act One?

A. Yes, and I had another bill besides that, but Senate Bill One was the one that we passed.

Q. Could you briefly give us background as to how Senate Bill One came into being?

A. The delegation had been sending word to various members of the staff of the Senate, and me in particular because I was chairman of the committee, and at some point or time was sent what I call a color map.

Q. When you say that the delegation, you're talking about the congressional delegation?

A. I'm sorry. The U.S. Congressional Delegation is what I was referring to. At some point in time I was told that Congressman Baker's office would receive in Baton Rouge and deliver to somebody at the Senate if not to me. I think I—I don't know if I received a faxed copy of that because it was colored.

And when we looked at it and had conversations over the [5] phone and even person to person with at least four members of the delegation in person and some of their staff, in conversations it occurred to me that that plan that had sent—it's been said is what we actually did which is imprecise or incorrect as I see it.

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So bottom line what I did is tell Mr. Koepp I said, look, why don't you do this. Take their plan to the extent [6] it's possible but consider the things that we must, one man, one vote, consider Shaw versus Reno which had come out since Act 42 as well as the articulation in Hays versus the State of Louisiana. And keep in mind all the things that we know because we've been through this reapportionment with the Legislature, did it, and had it thrown out and came back and did it again. We did with the Congress and now that's thrown out and we've come back again. So there's been some compilation by Koepp and others that's been used nationally and certainly in Louisiana.

Take all those principles of reapportionment, stick them in, due regard to each one, one man, one vote the Thornburg Gingles, the Shaw versus Reno and the Voting Rights Act as it was amended and all those historical things that are applicable now and mesh in the Hays versus State of Louisiana decision to fit these thngs. We knew some things both in terms of the way their opinion was written, it's clear what we needed to do, don't do what we did, do it a different approach. So that's why I had asked him to draw up a plan in that fashion which ultimately became my Senate Bill One.

Q. Okay. You mentioned that you had given Mr. Koepp all these instructions in compliance with all these particular factors. Did you know if there was any consideration given to, for example, one of the factors that this Court had [7] talked about in Hays religious and ethnic makeup up of the state?

A. Yes, but let me qualify that. One man one vote that we all, or at least I do, considered to be—at least takes precedence over all others esentially. When you go to one man one vote in the State of Louisiana, when you drop from Eighth Congressional districts that five hundred and a few thousand, go to seven, that's six hundred two or three thousand with no permissible deviation except maybe the remainder of the precinct to make it have a whole precinct in a district. On that you will cut across every demographic figure or idea that you use in doing reapportionment.

When you look at it one of the things I found to be a great advantage like a revelation is to look at Koepp or our staff at the computer graphics thing where he enters in and we start with what I call the what ifs. Let's do this, put in all this stuff, come up with something, and then if we move this—see it happen in vivid color literally where you are, then you find out all those things that you wanted to do you simply can't do because of any number of reasons.

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[8] The point of all this is you have it randomly [9] throughout the state, not like in some western states where the whole state was laid out in this fashion before. I think an Act of Congress requires it in conjunction with the census bureau and those things to do the '90 census. Each precinct then had to become, unlike past precincts a visible boundary. And where you mesh all these things, roads were on property lines, streams the way they were, and you tie them in, you'll have—I can't name a precinct in particular, but I can recall clearly seeing some. You'll have one runnig off two miles into the distance to a point where two bayous converge and there's no one living there, yet it's in there and if you put that into a district, whether the school board, police jury, city counsel, state legislature

or congress, you're going to have that point sticking out. And it's going to look funny. But, I mean, it's easily or readily explained.

Q. Okay. Do you know if any consideration was given to past reapportionment plans that the State of Louisiana has enacted?

A. Absolutely. In conversations with, I guess Koepp if not others, certainly with him, Glenn Koepp, I asked him what in the world have we done in the past because I know specifically about the 1972 congressional redistricting. I was involved in back room conversations in arriving at it, and particular reference being made to the Eighth [10] Congressional District because foolishly I did run in that district against Gillis Long in 1972, lost handsomely. But knowing that and what we had changed from what had been in the '60s thing and I think I was told that – I know I had the displays made for the Senate presentation. It's labeled 1970, '72, '80, '90, Act 42 I think, and then the current Act One on that. To look at those – because I do things better graphically.

But anyway, I asked Koepp to work that up and he did do it, he put it on the computer. It's not going to be technically precise because precincts today are not what they were then. Some of the data is simply not available but you can make some assumptions and come out relatively accurate as to what they were.

Q. And the district that was created in Act One do you see that as being very similar to the older congressional districts?

A. Yes, and let me explain how I'm telling you that. Go back to one man one vote and we're reducing from eight to seven and going from 525,000 or whatever in each of the eight districts to 602 or 3,000 in each of the seven on that. And then you say, now, what are we going to do. So you do the what ifs on the computer thing. This is what you come up with. It makes the most sense, it's practical, I think it's fair.

[11] The other Brinkhaus bill, doing the ideal to take care of the Cajuns first and then let the rest of the state go disrupted—Bob Livingston, disrupted Richard Baker's, two republicans, and I think that's one of the constraints. You cannot undo the other party, you must accommodate them.

So when you consider all these things and not disrupting other districts extensively—but remember, we have to disrupt them because of going to seven with 602,000. This is the result. It's the most sensible and fair way to divide it.

Q. Okay. In drawing the district was race taken into consideration?

A. The whole plan?

Q. Yes.

A. It's one of demographics, it's a demographic item that you take into consideration. I cannot tell you no we didn't. I mean, yes, we do. We've always done this.

Q. In order to comply with federal law the Voting Rights Act, you have to consider it; is that correct?

A. Well, you can add that in, too, just as a practical reality when you go in to do a reapportionment and I've experienced at literally all levels indirectly both below the legislative level, State Legislature, but it's a demographic factor. And certainly the Voting Rights Act as last amended I think requires that that be a factor put into [12] it, not simply to be looked at and then said, oh, well. You know, look at it and do something about it.

Q. You mentioned earlier that you had told Mr. Koepp to consider the Thornburg verus Gingles factors under Section 2 of the Voting Rights Act, let's go through these factors. First the Thornburg factor that minorities are geographically compact such that they could be placed in a majority-minority district. Do you bellieve that that's the case in Louisiana for your Fourth Congressional District?

A. Considering all the things that we are requird, constrained, whatever by cases, by statutes, U.S. Supreme Court decisions, my answer is yes. When you put all these factors in, when you take one out of the context of the litany of things that you're required to do, whatever that is that Koepp keeps telling me we've got to do on that and say we look at compactness based on race or not, well, none of these districts are compact, the exception probably being Bill Jefferson's district, whatever that number is and Bob Livingston's, whatever that number is, because they're close by, either adjacent to Lake Pontchartrain, New Orleans, and those parishes. When you get out of that there is no way for them to be compact even if you go back to the historical prospective, which is why I wanted to make the comparisons here. Were they ever compact? No. You take the number you've got to divide into the state's population, then you [13] start doing something about it.

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[14] JUDGE WALTER: Now what I want to know is what are all those other facts that you had to consider? You told me the looks of the deal for one.

THE WITNESS: We can't take any one district, no one can, and make it – I don't want to be facetious about it, but goody-goody for me or anyone else which is in my other Senate Bill in the Cajun area. I did what I wanted for that, but it disrupted the rest of the state. The point I'm [15] making, when you do a neat compact, any kind of a district, black included or minority-majority district, you're not going to have it neat in Louisiana given one man one vote and the fact we have six other congressmen in areas that you've got to deal with.

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[17] JUDGE WIENER: Did you consider and did you tell Mr. Koepp or was that in the conversation that a second district, the one you're talking about and look at the Eighth, wasn't it or was it not an assumption that this was going to be a black majority district?

THE WITNESS: If it was sensible with all of the legal constraints—

JUDGE WIENER: If it could be done?

THE WITNESS: If it can be done and make sense—

JUDGE WIENER: And done right?

THE WITNESS: And doesn't look ugly or as ugly, then do it. And we ended up with that.

[18] JUDGE WALTER: Let me just finish the et cetera. The things taken into consideration were the looks of the thing, one man one vote, the obligation to some extent, the obligation not to harm minorities, and to do whatever is reasonable to enhance their representation. Anything else?

THE WITNESS: Well, then, as a last result we've got to pass this bill with a majority of the House and the Senate.

JUDGE WALTER: Practical politics?

THE WITNESS: Yes.

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[19] Senator, do you consider Act One of that district heavily overloaded toward South Louisiana like vote wise when you got most of Evangeline, St. Landry, Pointe Coupee, St. Martin, parts of Lafayette, West Baton Rouge, and Iberville Parishes, is the actual total numbers in votes, does that pretty well control this district without

regard to black or white or wherever? In other words, like those portions of Natchitoches, Red River, DeSoto, Caddo, are they pretty well left to the mercy of the Southern districts in this thing?

THE WITNESS: I didn't put exact numbers on it but my recollection of it was this: Are you talking about what we've called the second black district? I think that's District Four; is that what you're talking [20] about?

JUDGE SHAW: Yes, in Section 4.

THE WITNESS: In the balance and if we go back to—well, I'd do a comparison but let me just say this, the balance on Congressional District Four, in my judgement we had a fair balance, and let me tell you what we had in it. We had some urban areas southerly from Shreveport, Natchitoches might qualify in what I was going to say, but anyway Shreveport to some extent, Alexandria, and, Baton Rouge, urban areas. We also had extensive agriculture outside of these urban type areas.

And then the numerical voting. The lowest parish I think was Ascension. I don't remember exactly which one. And we went on up and I think ultimtely Sabine is in it or not, I don't recall what that great debate held, I haven't looked at it to be prepared to answer specific.

I think the numerical balance across that district when you put the combinations that are in there that no one area is going to have to deal with i.e. special interest or interests of those that are Shreveport, rural upper parishes in the state, agricultural concept which is essentially the same as we have in South [21] Louisiana except rice possibly all down through the lowest parish. And when I make a mental comparison that's why I keep using the Gillis Long District of 1972 as then modified in '80 as a result of the '80 census on that. It simply was moved farther northeasterly in the state than Gillis Long. Gillis Long started at Lake Pontchartrain. We came away from Lake Pontchartrain to overlay idea, took his northwestern side and moved it on up northwesterly farther.

So we just shifted the district. Now it may be somewhat longer, 50 miles or whatever than the Gillis Long district. But in there you've got the balance and I had an opinion even in the Gillis Long district that I lost in there, there was a balance. My failure to capitalize on what my balanced area was is not relevant and that means I lost the election. But, again, there was a balance. Rapides, Avoyelles interest. Then you had Evangeline, St. Landry, different than the river parishes. But those four parishes constitute about half of his population and the river parishes could have always had the united and they ran candidates to it.

I make a comparison today directly on to your question, Judge. I think in this Fourth District the [22] same thing is there. Three to four pockets of interest and another one also being majority-minority.

BY MR. MONGRUE:

Q. Senator Brinkhaus, one other fact I want to ask did you consider, did you consider the need to remedy the effects of past discrimination against minorities in Louisiana?

A. In the sense of the Voting Rights Act I think that's what we're called to address, that issue, and so my personal opinion or my opinion is I think that we do need to do it.

When we create a 55 percent by registered vote district we're only giving a minority candidate an opportunity to win in that district because when you consider turn out and fall off which I have personally done on St. Landry voting patterns probably starting in the 1960 races and did them all because when I get up to running and I have continued to do it. But when you look at what happens and I imagine happens everywhere, turn out in the minorities and then the fall off from the favor – if you have a sheriff running you get the maximum, a governor might also at the same time. You get down to senator, I'm running at the same time, you drop off 10 to 15 points. You get to the House member, you drop off. Get to the juror, they're voting for the juror probably more than they are the governor or the sheriff.

But, again, to have it fair, 55 percent gives them that when you consider the turn out and the fall off, and the [23] turn out of the whites being 75 to 80 percent traditionally and not as dramatic a fall off on those positions, I think then this sets it equal.

Look at Larry Bankston. We created a majority-minority district in that Senate district in Louisiana. Larry is white and he defeated black candidates. I'm assuming they were equally acceptable but he did win. And that's why it – take this thing – if you're going to give a reasonable opportunity given voting patterns consideration, you've got to have it over 50 percent and on registered vote at about 45 in that area.

Q. Okay. Let me ask you this. As far as compelling state interest do you believe that minorities in this state continue to suffer effects of past discrimination?

A. Absolutely. I mean, we still are doing things to get them in position of employment, in public employment, and I presume my involvement as a State Legislator has been public to try to help them which I have done on that. And I find now for example now that Senator Cravins is an adjacent senator in similar parishes, and we have two at least that are together, Representative Charles Hudson in Opelousas is black, he is now my House member. I see more of an effort by them with me leading and or helping them in accomplishing the goal of assisting the minorities in our areas, not just my district but in our areas, for public employment, for the [24] State Police, Wildlife and Fisheries, etc.

Q. Can you expound on how Act One passing of a plan that affords minorities a reasonable opportunity to elect a candidate of their choice to congress would remedy, help remedy the effects of past discrimination?

A. Again, I'll use my analogy. There will be two congressmen from Louisiana representing the minorities assuming that Cleo Fields would be elected in that district, we'll assume Jefferson is going to be elected in his district on that, that working together they can have a more pronounced effect for minorities and all of Louisiana in Louisiana and I'm assuming that would have a spin-off effect for minorities all across the nation. But if you beef up those numbers it will do it. I say that based on my experience.

In 1968 in the House Dutch Morial, the current mayor's father, was a member of the House. He fought a battle on a bill that really strikes and comes to mind, was to mandate a discontinuance of labeling blood, where you give blood and it would be labeled black blood or white blood, whatever color. And he had a bill in to prohibit that. It would just be blood in the type or whatever else was there. And the bill failed.

Q. At the time was he the only member of the—

A. Yes. There was one member in the entire legislature [25] that was black and that was in the House side and that was that.

Then in the '72 term or thereabout after as the numbers increased, ultimately we passed that bill on that. I don't remember the numbers of black House members in my '72 term, but in '76 when I went to the Senate, same situation, one black senator, Sidney Barthelemy. And except for the good will of some senators and it's more clickish and clubish, he made it a point, he had to be part of this thing and vote on some things I imagine he would have preferred not to in order to get us to consider black issues.

In '80, then you had—I think Hank Braden replaced Sidney Barthelemy. He had the become city council or mayor. Then you had Hank Braden and Richard Turney from Baton Rouge. Then you had four in probably '84, and now you have seven. And I can assure you—I don't know how to say this, but I'm called part of the Senate leadership. There's a heck of a lot more involvement directly of blacks in that leadership grouping, whatever that is, there are more committee chairmen today, not because bodies but they've moved them, you need to do it. Now maybe we've done some things on our own rectifying of past things. On committees of finance we've made sure that since '76 these, at least when Sidney Barthelemy came, he was a member of finance. We always had a minimum of one seat and now we have three seats [26] I think of eleven that are for minorities.

But with their numbers, the body, which is the goal of all this reapportionment, you've given an opportunity to somebody of minority to win, they win. Now, was that the goal? No, the goal is to go represent us and when they get to where they represent us, the bodies I've been in, those additional numbers give them a much more effective dealing wedge to deal with the majority of that body.

Q. And more of an ability to pass or influence legislation that has a specific effect on the minority community?

A. Absolutely. And I'll give you an example, another comparable away from blacks. We had Virginia Shehee was in modern times—I say modern, in the '50s a lady senator. She served one or two years. But she would on occasion go to a microphone and tell us men, the other 38, something from a woman's viewpoint that we never even thought about. It's not that we didn't care, we never thought it. Men don't think in these terms. Diana Bajoie is in the Senate now, Virginia is out. She too has gone to the microphone to remind us of things just on occasion. Not really big deals but the prospective and maybe the gentleness of a woman.

By the same token you make a comparison. And my direct experience with the minority there it's a lot easier – rather than one voice alone versus 38 others or one of 105. When you have a number, an effective number to deal with [27] that body on that where they've got to deal with you, you will get benefits for your concerns.

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five – I'm trying to remember the numbers that I was told. Somewhere like 10 percent would be probably the least minority in the 20s, 26 or 27 I think. I think the McCrery district has about 25 or so but it's in some of this data that we had in Senate Bill One.

The Eighth District is probably 9, 10, 11, 12 percent, and that would be the least impact. But, again, when you consider his area of broad based Catholics, liberal prospective on that, and strong communities of minorities in Rayne in Acadia Parish, in Crowley in Acadia Parish, in Jennings, in Acadia Parish [28] as well as Lake Charles, he cannot ignore that because he'll get wiped out in those communities. Their voting patterns as my experience has been, something like 90 percent of those who go vote are for their candidate have been the recipient of that. Like getting eight hundred and something votes at a precinct to ten for the opponent. That's an example I'm talking about.

But again, no elected official if they have a lick of sense that wants to get reelected can ignore a 10 percent and as you go up it certainly would be greater districts.

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[34] positions shows the dramatic thing. It's 55 percent registered voters what it is to make it effective, so it's level playing field. And that's why I mentioned the

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[39] Q. The area that was the old Eighth even before Gillis Long that was – I'm sorry, before Holloway that was the Gillis Long district, do you know how many parishes that construction split?

A. In '72 when we created that Eighth Congressional District, there were 14, 16 parishes involved in it. 14 whole, two parts as I recall.

Q. So there were two split parishes even in that construction of the old historic one that you wrote?

A. Yes, and it was split parishes in each of the other congressional redistricting from the exhibits marked – I mean, dated 1970, '72 and on through, parishes were split.

Q. Excuse me.

A. Yes, parishes have been split prior to 1972.

[40] Q. But on that construction, you had two out of, I think you said, 14 parishes or 14 plus two portions?

A. Plus two portions, what I recall. I don't remember all of them, but I think Livingston and another one were divided.

Q. So that's a little bit over ~~10,~~ 15 percent of the parishes included in that old district. Two out of 14 or two out of 16, however you want to do it, was all the split proportion that you had in that old district?

A. In the '72 district, yes.

Q. And then in Clyde Holloway's district which would be the '80s.

A. The one in the '80s, I think there were more parishes that were split. Allen Parish was the other one. Initially in the '72 when it had Oakdale I believe that area and then in the '80 '82 – well, we had to come back and redo it in '82-'83.

Q. When I'm speaking of the '80s, I'm talking about the post Major V Treen, the one that stayed from the early '80s through '90.

A. The one that was the result of the Treen. When we came back and did it again my recollection is there was more of Allen Parish in it, in that northwesterly branch, if not all of Allen Parish, but it was some other parishes that were divided and I don't recall. I no longer had a direct [41] interest in being involved in it.

Q. You had lost all of your interest in running for congress?

A. August of 1972, I no longer had an interest in it.

Q. Is it fair to say that that district may have had only—do you have any reason to disagree that that district in the '80s that Representative Holloway served, may have split as few as three parishes in that construction?

A. I don't know.

Q. Now, this construction that we have today, do you know how many parishes it splits?

A. Not really. Several, but it—the Act One does not come close to cutting as many as Act 42 did, which what we had come back home to reassess after Act 40 was held unconstitutional, we addressed it with Act One and reduced parish cuts as much—much more than Act 42.

Q. Do you know how many parishes have at least a portion in Act One Fourth District?

A. I couldn't tell you that.

Q. Do you know what—is it fair to say that there may be as much as 12 or 13 parishes split in this construction?

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[43] Q. So would you—it is obvious that this splits substantially more parishes than any other construction of the old Eighth; is that fair to say?

A. Yes.

Q. Are the splits based on that commitment or that desire, that goal that you had of also constructing this district so it was a 55 percent registered minority district?

A. It was part of those things that I told Koepp to direct it to. What we had by using, let me call it the extremes,

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[45] Q. As it relates to the splitting of these parishes, you had also mentioned the racial construction was one goal.

A. Yes.

Q. Did the splitting of the parishes in this way add and serve that goal in meeting the 55 percent minority construction requirement?

A. I didn't do it myself, but I'm going to assume that would be a valid assumption since it ended up being with a 55 registered—percent registered vote.

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[46] Q. Do you have any knowledge of the little finger that just—there's a hook up from the district that would be Representative Hayes', I guess, District Seven that comes up and then there's the little hook finger that comes underneath it for the Fourth; do you have any knowledge at all that this—and it is in the St. Landry area, the St. Landry Parish. Do you have any knowledge of the residences of that neighborhood?

A. My recollection?

Q. Racially?

A. Yes. I think that that's Ward 3—parts of Ward 2 and 3 in St. Landry Parish and I've forgotten the specific [47] purpose except to meet the personal requests and insistence upon the Acadiana delegation that we have maximize the return of the Seventh District to what it had been historically way back with Evangeline, St. Landry to the extent it could be restored to it and in accommodating that as well as to accommodate the Fourth District in Ward 3 area is dominantely white and to get across in that area where the prone goal is to, you came through Ward 2 in St. Landry Parish which was some 50-50 precincts in there.

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[50] Q. Would it be surprising in your understanding of the construction if it was a substantial difference in the racial construction of the component put in the Fourth in comparison to the component put in the Sixth?

A. It's possible and then it's by logic and if you look back, the Fourth is 55 and whatever the Sixth is—that percent I think is around 18 or 20 or something percent on that. That proportion would be there but maybe not so you'd have to look at the precinct to see what its numbers were which is what that computer looks at.

Q. Correct, but cumulatively getting it accomplished to maintain that 55 percent, it's not going to surprise you as divisions occur that the divisions that result in both the grouping of minorities on one side of the line and the grouping of white citizens on the other to maintain the numbers on both sides; is that correct?

A. I think it's a logical conclusion that one can make. Additionally, unless you—

Q. So you cannot ignore both sides of the line?

A. Yes, that it is a logical conclusion. On the other hand, it could be that in the senate size, that the senators involved in those precincts simply did a political option of [51] what was in and out and I don't know about this and we don't know unless there's some specific testimony from the floor of the Senate or the committee, Senate committee on that, an amendment offered or a change suggested and that happened. I'm told it happened in a number of places. On another bill another time, I got a certain precinct kept in my senatorial district because my mother-in-law lives there. I eat the one home cooked meal I get a week at her house.

Q. But cumulatively regardless of the idiosyncratic that the isolated moving of precincts back and forth for good supper or residences of in-laws, cumulatively, the line had to maintain the minority construction on the Fourth side and place the white citizens in those areas cumulatively on the other side of the line in the Sixth district; is that not correct?

A. I'd say the effect of what was done with the reapportionment, that would be a fair statement.

Q. You did propose, I'm not sure that you actively pushed it as a plan, but you did include Senate Bill 2 that was referred to, I think, in the committee hearings as your purely regional plan.

A. Senate Bill 2 was the other Brinkhaus Bill?

Q. Yes, sir.

A. Oh, absolutely I did. And I did it to be counter—the Thompson plan which in my interpretation are words to [52] describe it to be his north Louisiana fix us up plan. I said well, fine. I'll start one which undid the rest of the state, as a figure of speech. I'll do one that takes care of my [C]ajun area and let it fall where it may.

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[58] Q. Right. I'll save us from some of the maps for a little bit. You had talked earlier about your thinking on why you were attracted to the 55 percent level or justified it in your mind based upon I think you said turn out and then drop off?

[59] A. Yes, fall off.

Q. Fall off, thank you. So you were beginning at a 55 percent registered, I believe, or 55 percent population.

In your mind what were you speaking of, where were you beginning in that analysis in your own mind?

A. My recollection is that it was registered votes.

Q. So we're starting—in your mind you were starting at 55 percent and I'm asking about Senator Brinkhaus right now not the legislative body.

A. Senator Brinkhaus half of it was to have 55 but no more than 55 percent registered and preferable right under it and again my recollection and I do not have my personally marked up by me copy of the first Hays decision, I have someone else's marked up and I can't locate it, but there was some language in there that the 65 percent—

Q. 55?

A. No, no. In Act 42 was exesssive and I had gathered the 55 percent registered or less but in that area was permissible in the sense of I further recall and understood from the first Hays decision was that there had been some testimony saying that a second majority-minority district could be created with about 55 percent registered votes. I have sought for it on the computer through Koepp. We didn't find this neatly compacted one. We found this one, less than neatly compacted but it was articulated by the Court [60] that the testimony had been they could do a neater one and I have never seen a neater one with 55 percent for the majority-minority.

JUDGE WALTER: Excuse me. Are you telling me that you cannot draw a neater one with a 55 percent majority-minority?

THE WITNESS: I'm telling you I don't think you can because I asked Koepp to computer-wise try to find it. We had invited Mr. Hurd and his clients to come to the committee to present that thing that I thought had been mentioned in the Hays decision to us so if there was a second one that we could do more neatly compacted than what we ended up doing in Senate Bill One we would look at it. No one came forward with one that could be done. We couldn't find one. We couldn't create one.

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[61] JUDGE WIENER: Let me ask one other variation on that. If had you worked with Mr. Koepp to draw the 55 percent, Judge Walter asked you about more compact, neater and so forth and had impractically but theoretically removed incumbent and partisan politics as a factor, do you think then you could have drawn the lines?

THE WITNESS: I really don't know but I do not think that the incumbency or party was relevant for what ultimately was Senate Bill One.

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[62] THE WITNESS: Senate Bill One, Act One, when I say for me because that ultimately became the law with some precinct changes for whatever those reasons were. But it was, and I mentined it earlier and I don't want to be redundant with that, but not to undo the three republican office holders, to be fair to them, and all other things I've already said today, so that I don't think the consideration about whether Cleo Fields lived in it or out of it was relevant.

JUDGE WIENER: I'm getting mixed—hearing mixed things. First, I thought you said that incumbent and partisan politics were not relevant. Now you said about the three republicans.

THE WITNESS: Okay. As a specific precinct decision, they were not relevant I don't think unless Koepp did something and didn't tell me about it. My instructions to him were to address the needs of the seven congressmen.

JUDGE WIENER: That gets back to my question.[63] Take that out of there, could you do a neater, more compact?

THE WITNESS: I don't think so.

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[68] Q.Now, we had talked about your personal feeling for 55 percent registered being appropriate and you have identified three factors that cause you to suggest that 55 percent only provides an opportunity for a minority candidate to be elected, not a guarantee. Is that fair that you think at 55 percent it's an opportunity for a minority candidate to be elected?

A. Yes, it is, but it's not a guarantee. I keep referring to the Senator Bankston district where he's in a majority-minority district and yet won over minorities.

Q. And in your mind, do you believe that 55 percent registered results in a more than 50 percent minority turn out as a result of those districts or would it be less than 50 percent of those that actually vote in the election in your mind?

A. I still do not think that 55 percent registered majority and that's based on my own experience that I mentioned earlier today about actually calculating the returns in St. Landry Parish over many election cycles on that. I don't think that that guarantees it because you [69] have the turn out and the fall off depending on the interest in the election, but generally proportional to the white community in that same division, you'll have still the same proportion or larger to turn out and less of a fall off.

Q. So if we were going to talk about where do you believe is an equal opportunity, not a guarantee but an equal opportunity for minority candidates to be elected, if you start at 55 and then you adjust in your mind for maybe even registration differences, but even beyond that turn out differences and then roll off differences between minority and non-minority, are you in the 40—what range of voters participating in that election, what range would you put it to be an equal opportunity?

A. I would see that in a 55 percent registered or 54 to 56 registered minorities that given my opinion about it that they would be down to about an effective 40 something, around 45 to 48 percent effective voting power versus the white side of those who actually go vote because typically the white community votes in larger numbers and the fall off of various positions on the ballet is much less.

Q. So for those adjustments you're talking about at the election level, at the particular casting of the votes, you're in the 45 to 48 percent?

A. Yes, and the reason I'm doing it is because that's where the action is on election date.

[70] Q. Absolutely.

A. But we didn't want—the 65 percent I think is over doing it, that's what this Court has said.

* * * * *

[78] Q. Let me ask you this one final question about incumbency. It was mentioned about whether or not Act One took—were you concerned about what is—strike that.

What do you see as the role of incumbency protection in redistricting and so far as it pertains to the State?

A. I think it occurs in Washington, I know it has some place in the Louisiana Legislature that as time goes by and a member of the body is there longer, certain things happen if they have played their congressional or legislative politics properly. One, they have seniority within their party. They're going to advance to the positions of power over time.

I could—even subcommittees in the Congress, I can [79] relate to you the experience with Jimmy Hays very graphically. Some committee, some kind of public works committee, I asked him for 300,000 to 30 something, he put in the Act of Congress about 10 or 12 million dollars then had to compromise it down to only 5.

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[80] Witness: Glenn Koepp

JUDGE WIENER: Thank you very much, Senator. The Court would like to recall Mr. Koepp to the stand.

JUDGE WALTER: Mr. Koepp, let me ask you, considering—you're familiar with—

THE WITNESS: Yes.

JUDGE WALTER: And the three factors that you have the compactness, numerous minority cohesion, block voting, is it possible to draw seven congressional districts, two majority Afro-American districts that are compact that don't travel and meets [81] the Gingles census?

THE WITNESS: Your Honor, I truly believe that this is the most compact—the Fourth District in this plan is the most compact second minority district in the state that has 55 percent registered to vote minority.

JUDGE WALTER: And are you telling me that Afro-American distribution in this state is such that you just cannot draw a compact district?

THE WITNESS: More compact than this one? I don't believe so unless you were to take the issue of compactness being a point in the center and the closeness around it, not considering the total area mass. If that's the definition of compactness then maybe the plan they were just discussing certainly is closer to a central point. But then I think—

JUDGE WALTER: But it's ignoring the traditional—

THE WITNESS: That's what it does. And it more than goes in and gobbles up, if you will, I think the Court's language of minority precincts versus majority precincts.

JUDGE WIENER: In the terms of Gingles the concentration of black majorities, this is the best you can do; is that what I heard you say?

[82] THE WITNESS: And have it –

JUDGE WIENER: Best you can do?

THE WITNESS: The best I believe you can do and have it not violate other standards that doesn't look like.

JUDGE WIENER: What about your testimony yesterday where you said hands off of Shreveport? You found then that you had to put hands on Shreveport?

THE WITNESS: Yes, sir. Your Honor, the thing about that is there's such a major concentration of minorities right here in Caddo Parish, in Shreveport. There's no other spot in the state, even considering Monroe or up the Mississippi River. If you look at it from the terms of is it a high concentration minority, yes, it is, but Tensas Parish, although it's a very high concentration, is only 10,000 people. We're talking about 5,000 – if it's 50 percent we're talking about 5,000 blacks, whereas Shreveport alone in one very concentrated area here in town has about 80,000 blacks and there's no other concentration of them like that in the state other than, of course, the Orleans and East Baton Rouge.

JUDGE WIENER: But you get out of Orleans you have 80,000 to make up 55 percent of 603,000?

THE WITNESS: Yes, sir.

[83] JUDGE WIENER: And you cannot avoid going from there to Baton Rouge to get 55 percent of 603,000 is what I hear you say?

THE WITNESS: Okay. Your Honor, maybe I'm misunderstanding. And have it meet those other standards as, of course, I interpret them and I think that we looked at.

Yes, sir, you can create probably – if I may. If you just go in and see if you can make a second district in Louisiana that has 55 percent registered voter minorities and –

JUDGE WALTER: How about 55 percent population?

THE WITNESS: Okay. And have it continuous, we can start in East Baton Rouge and not go any further than Alexandria and stop that district. It would go — East Baton Rouge would go down the Mississippi River, probably St. Charles, St. John and into Lafayette. We could take it, go into the Felicianas and into the top of Tangipahoa, go up the river and stop at Monroe. You could probably cut another one and cut the tail off and go to Alexandria and Monroe but not go as far down the river.

There is a plan that actually does a Y. It comes down the Red River then goes up this other side to [84] Monroe.

JUDGE WIENER: Is one of those more bizarre than what you've got?

THE WITNESS: Yes, sir, that's what I'm saying. There's even one that goes to Lake Charles. But every one of those seems to be much more bizarre, all of them are more biarre, if you will, weird drawings than that. So you can create a lot of versions of a second minority district but none I believe as compact, as nonbizarre.

* * * * *

Q. Would you consider District Four as it is for Louisiana, would you consider it reasonably compact?

A. Yes.

Q. That's all I have.

JUDGE WALTER: Why is it reasonably compact? I mean it's obviously not compact. Now how is it reasonably compact?

THE WITNESS: Your Honor, my opinion of that, and I think it's even in the decision by the [85] Supreme Court, compactness is in the eye of the beholder. You know it when you see it.

JUDGE WALTER: It's not compact to the eye of this beholder. Why is it reasonably compact?

THE WITNESS: I think that what plays a big part in that is the past history in Louisiana of what congressional districts look like as well as what that –

JUDGE Wiener: Are you talking about old Eighth?

THE WITNESS: Yes, sir, the old Eighth, the old Fifth. Where, you know, the old Fifth had a much smaller turn where it was part of North Louisiana and part of Felicianas than this one does. It was a very thin line that came through. Those districts have been in existence before, so taking that into consideration.

And I guess it also has to do with your own interpretation or decision of what compactness is. And if it's a square – if it's closer to a square or a circle, probably this isn't as compact, but if that's not what you're looking for, if you're looking for the creation of congressional districts I really believe this is. And I think if you look across the country at districts like this you will see congressional districts all over the country.

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[87] JUDGE WALTER: Now you can go back to do whatever you were going to do. This is just as a matter of curiosity, is this a computer program or is it –

THE WITNESS: Your Honor, it's a –

JUDGE WALTER: Is it available on disk?

THE WITNESS: No,sir.

JUDGE WALTER: Transferable?

THE WITNESS: No. The computer that the data – the drive is about 2.5 gigs of information. At this point it takes a very large –

JUDGE WALTER: Can't get it on a lap top?

THE WITNESS: No, sir, you cannot. It's a very large mainframe that we have to interact with on a large workstation. Ten years from now or the next time we do it we're probably going to do it on PC's. But at this time we have to be fairly close to that mainframe. It's not transportable, if you will, across the state.

JUDGE SHAW: Let me ask you something. If you want to move the line from one district, say District Four, if you want to move the line how soon on that computer can you tell me how the percentages of black and white change, how fast?

THE WITNESS: It's instant. What we do is, the way that system works, the state—we use, of [88] course, precincts are the lowest geography you go to. We really can go below precinct down to the census blocks and if there's data at the census block level, both population by race—

JUDGE SHAW: Does it change the other six districts instantly too?

THE WITNESS: Yes, sir. What that computer does, you set that up—you originally set up and you say I have got this geography and the State of Louisiana is 4.2 million people. I'm dividing it by seven. And the computer immediately comes up with what is the ideal district of 603,000 and then you assign District One. You pick the color on the map that you're doing. I think we've got hundreds of variations. You pick a color for District One and then you start assigning—the largest level you can assign at one time is a whole parish. You assign that parish. It instantly tells you District One now has whatever that total is. East Baton Rouge Parish, the same thing. 365,000 people I believe.

Then under that list we carry about 42 items. It's total population, total white, total black, total up. And then the other categories of census which is American Indians, Pacific Islanders, and other people.

And then the second set is by 18 years or older. [89] So it's that same category of 18 or over. And the next set is total registered voters in the state of Louisiana and we picked 1984 I believe in this and we brought that data in. And it shows total white, total black, total up.

JUDGE SHAW: Registered voters?

THE WITNESS: Registered voters; yes, sir.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

NO. CV-92-15222S

Ray Hays, et al, plaintiffs

versus

State of Louisiana, et al, defendants

United States of America, defendant-intervenor

The above-entitled proceedings were had before Judges Walter, Weiner, and Shaw in the United States District Court for the Western District of Louisiana, Shreveport Division, on the 22nd day of July, 1994. Afternoon Session.

* * * * *

[26] MR. MONGRUE: Yes; and I think, Your Honor, what you have got to look at is there is no way to draw a district without looking at race. And the other thing is in Whitehead which is the case in Crowson, Justice O'Connor said the State doesn't have to prove itself guilty in acts of remedy. The State doesn't have to say: Okay. Before we draw a second minority district, we think we might be in violation of Section Two. We are not sure. It looks like it fits [J]ingles; but before we draw this second district, someone has to sue us and make us do it. The State doesn't have to affirmatively prove they are guilty of Section Two in order to comply with it. It is just that their reasonable belief that compliance with Section Two, you would have

a problem with compliance if you don't draw that second district. That's all we need. We don't have to confess judgment that we are guilty before we do it. I think that's what Senator Brinkhaus and Bagneris talked about, and Koepp. I am sorry. Simply looks at the district says: Boy, I am really close. I can go to Shreveport, and I have got the district. All right. So, he says it is close. It may be a close call under Section Two; [27] but the thing is that the State doesn't have to say: We are definitely in violation of Section Two before we draw that district because then we are going to have to go litigate. So, the State's in a terrible position if we have to do that.

JUDGE WALTER: If in your first, if those are compelling state interests, then why wasn't Act 42 okay?

MR. MONGRUE: Why wasn't Act 42 okay?

JUDGE WALTER: Yeah.

MR. MONGRUE: The only, my view of Act 42 is the only problem that Act 42 had was bizarreness of shape. I still believe and I know this Court accused me of being disingenuous last time in its opinion, but I still believe that the, if you look at commonalities of interest, they are still there in Act 42. The only thing that I found wrong with Act 42 was its bizarreness. I still believe that, you know, if that's taken out of the picture then Act 42 is—serves the same purpose or then the question compact may be there too. 65 percent, I agree with that. Other than that, I don't think, I think the State's compelling interest is still there. I think that remedy, past discrimination, compliance with Section Two, how [28] many plans were introduced in this section in which they create a second minority district. The fact that they can do it, the fact that Senator Brinkhaus depending on whether it is on your baby or if your ox is getting gored, the district looks nicer or it doesn't look nice. So, how is a legislature sitting there in Baton Rouge going to make this call? I think the test is whether or not they are being reasonable or not, not whether they are absolutely exactly in line. Because if you do that, you put us in a predicament. Representing the State in this matter, we have got U.S. Justice Department which we have to meet their requirements of. This Court issued—

JUDGE WALTER: You have to?

MR. MONGRUE: We have to get it precleared.

JUDGE WALTER: Or—

MR. MONGRUE: Or go to D.C. District Court, Your Honor; and I agree that's an alternative. But you realize D.C. District Court, the test that we have to satisfy is not only the plan does not result in discrimination, it has no—we have got to meet—the burden in that court is a lot greater than any other court. If you read what that says, the State [29] has to file a suit, plaintiff in the case, and meet the burden that we have neither the intent nor the result of diluting minority voting strategy or in any way impairing minority voting strategy. That's the burden that opposite side has. So, we're damned if we do; damned if we don't. If we draw two, this Court says that's not good enough. If we draw one, the D.C. District Court says: Well, maybe you shouldn't. The state is in a—I guess, I don't know how else to say this. We have got the U.S. Justice Department and the Federal Court in D.C. District Court telling us essentially we are going to go one, you need two.

JUDGE WALTER: We don't—

MR. MONGRUE: We don't have any in D.C. District Court, but we have got a significant burden to overcome if we do that.

JUDGE WIENER: There's a little footnote in page one about that.

MR. MONGRUE: Yes, you did, Your Honor; and it was, I guess, of little sol[a]ce to us who have to do—I mean, we are sitting here between the U.S. Judicial Branch and U.S. Department of Justice. One is saying: You have got to go this way. One is saying: You have got to go this way.

[30] JUDGE WALTER: Did they say that?

MR. MONGRUE: Did who say what?

JUDGE WALTER: Did the Justice Department say you have to go this way?

MR. MONGRUE: The plaintiffs have introduced that letter sent by the Justice Department.

JUDGE WALTER: Sent to—

MR. MONGRUE: It was not sent to the State but it was something that was brought up that the Justice Department still believed we had to have two—

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[51] JUDGE WEINER: The Court has deliberated on the motions, plaintiffs for a judgment in the matter of law; and the motion is granted. Act One of Special Session Two of 1994 is unconstitutional. The plan thereunder is null and void. The elections under that plan shall be enjoined. Again, however, we do not invalidate the 1992 elections that's proceeded. The map and the plan clearly reflect racial gerrymandering. That shifted the burden to the State to show narrow tailoring to further a compelling governmental interest which in itself has failed to do under among others Shaw v. Reno and Thornburg versus [J]ingles. The credible evidence old and new demonstrate solely that Act One is less extreme than Act 42 but nonetheless race driven. The Court considering the impending congressional elections shall expedite the appointment of a special master and provide a plan for the election.

The Court reserves the right and shall in all liklihood issue a written opinion as well as a separate order as the scope and arguments given.

The case is concluded. Court is adjourned. The Court would like to see in conference Mr. Jerome, Mongrue, and Hurd.

[52] MR. MONGRUE: Before we adjourn, could we make our motion under Rule 62 for the State pending appeal? I would like to get that motion.

JUDGE WEINER: We accept the motion. Take it under advisement.

JUDGE WALTER: We will see you all right through here.

(Whereupon, the testimony was concluded and the witnesses excused.)

HOUSE & GOVERNMENTAL AFFAIRS COMMITTEE

April 18, 1994

Committee Room 3
CHAIRED BY REPRESENTATIVE ACCARDO

* * * * *

[7] SENATOR GUIDRY:

Senator John Guidry, District 14, here in East Baton Rouge Parish. I simply wanted to comment, I speak in support of House Bill Number 8 and the maintenance of two minority districts here in the State of Louisiana.

I think the plan that is going to be before you today will meet the criteria that the Court has set as relates to those issues, contiguity in terms of compactness and commonality of interest. And, more importantly, it will allow the persons of that district of African-American descent to have elected a person of their race.

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[28] REPRESENTATIVE STINE:

Mr. Chairman, I'd like to ask a question of not only Mr. Copelin, but it's a standard question I'd like to have everybody answer on whatever maps they bring up.

I know that we want to have a plan that is honored by the courts, and when reading the plan document or I guess the Court's interpretation of why the current plan was thrown out, they always talk about what was the driving force or why you [29] drew the district lines the way you did, and, of course, they talk about race, they talk about regionalism, they talk about whatever the driving force.

And so a question I'd like to have Mr. Copelin and anybody else who comes up here with a certain plan is to answer the question of what the driving force or why they drew the lines the way they did.

THE CHAIRMAN:

What's the political reason for the way those congressional districts have been drawn?

REPRESENTATIVE STINE:

That's correct.

THE CHAIRMAN:

And whether or not it's driven by economics, by race, by religion, by region, by economics, or whatever? That's the question you want to know?

REPRESENTATIVE STINE:

Yes.

THE CHAIRMAN:

Mr. Copelin, do you care to answer that, sir?

REPRESENTATIVE COPELIN:

I'll attempt to do that, Mr. Chairman. Basically, the Staff was requested to come up with [30] a plan that obviously had commonality, one that was driven by compliance with the recent court order, and one that, again, reflected the spirit and intent of the Voting Rights Act, and that was to have at least two majority black districts.

I'm advised that the statistics and facts reflect that. I would have to yield to the more specific details on the staffers who did the plan.

REPRESENTATIVE STINE:

In setting up the 4th district, would you say the driving force was regionalism, race, religion?

REPRESENTATIVE COPELIN:

Well, I wouldn't want to highlight either one of those. Again, I think there are a lot of factors that go on the commonality, Mr. Stine, but the driving force was both to make sure we comply with the recent court decision and also the spirit of the Voting Rights Act.

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[36] REPRESENTATIVE BRUNEAU:

Mr. Copelin, you talked about the spirit of the Voting Rights Act, whereas the Court in the Hays decision talked about what the Voting Rights Act actually said. And I went back and I reread that decision last night, and I don't find anything in that decision—maybe it's the Justice Department or someone in the Justice Department that says that the districts must be race driven totally and that there must be two black districts.

Now, from a political standpoint I can certainly see that there can be an argument over whether there should be one or whether there should be two, or one of the bills has no black districts and I think that's what I call a reverse wedge, which is a racial gerrymandering one way as distinguished from a racial gerrymandering in the [37] other way, and as I read the decision, it says that you can't racially gerrymander.

And I know we're going through a thicket of legalisms because it seems to me it is obvious that some nameless, faceless bureaucrat in the Justice Department who supposedly told you when the last reapportionment was going down that unless there were two black districts the Justice Department would disapprove the districts, obviously was overruled in the Court decision.

And I would simply like to know whether it is a political decision that you feel we should have two districts that have majority black in them and that we should do whatever we need to do in drawing the lines to achieve that, or whether it was someone in the Justice Department who told you that. And if it was someone who told you that, would you please tell us who it was?

REPRESENTATIVE COPELIN:

Mr. Bruneau, I think the fact that the Justice Department rejected the plan for the vote of Elementary and

Secondary Education I think it was, and, in fact, sent it back and said we ought to have two districts shows where Justice was at the time. I understand there's a different [38] Justice Department now.

And no, it is not completely political, it's not political motivation to have two majority black districts. That, I must admit for the record, would be my political preference, but I don't think it's driven by that at all; to the contrary. And, again, when we send this plan to Justice, and we must do that, we'll find out.

I hate to repeat, but the plan was developed basically—and I agree with you there is some difference of opinion with the courts and the Justice Department, and the intent of the drafting of the plan was to comply with both and at the same time be reflective and fair of the political makeup of the state.

REPRESENTATIVE BRUNEAU:

Okay. Now, let's get back to my specific question on that issue. Did someone in the Justice Department tell you that there must be two black congressional districts in order to gain approval?

REPRESENTATIVE COPELIN:

I have not personally communicated with anyone in Justice, and if I did I would think that Justice can come here and speak for themselves. [39] I'm not going to purport to represent Justice's position at this time.

REPRESENTATIVE BRUNEAU:

Okay. That's question number one.

Now, as I read that decision we had some it was Justice Weiner I think that wrote the majority opinion?

THE CHAIRMAN:

Yeah.

REPRESENTATIVE BRUNEAU:

We talked about compactness and contiguity. Well, contiguity, of course, means that all the parts need to connect either by land or by water. And I think one of the points was that more so in the North Carolina case than in the Zorro plan,

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[43] REPRESENTATIVE BRUNEAU:

All right. Point well taken. You say there's a commonality of income. What other commonalities are there?

REPRESENTATIVE COPELIN:

Well, I think we have—it's a big issue in the public eyes now, has to do with health care and criteria around that.

REPRESENTATIVE BRUNEAU:

Wait. Wait. On a particular bill before a Congress at a particular time, that's why we [44] should have a congressional district for ten years because there may be people who think that some health care bill—and even Slick Willie changes his bill from day to day, so I don't know how anybody could know what they were for.

REPRESENTATIVE COPELIN:

I thought your question was the common interest of the citizens—

REPRESENTATIVE BRUNEAU:

Common interest, yeah.

REPRESENTATIVE COPELIN:

—and I'm saying if you look at the census tract, and they identify certain issues that Congress speaks to, and I think if you took that test you'd see some common interest. I won't get into debate as to what I think is a common interest and what other members of the Committee or the legislature might think is common interest as I said earlier because we're going to have various definitions.

REPRESENTATIVE BRUNEAU:

So we've identified the Health Care Bill and income as points of commonality. Is there anything else that—

REPRESENTATIVE COPELIN:

[45] There are many others points and I'll be glad to get them to you.

REPRESENTATIVE BRUNEAU:

If you would, please.

REPRESENTATIVE COPELIN:

No. I'm not going to take that test right now.

REPRESENTATIVE BRUNEAU:

In other words, you don't choose to put on the record how you feel this wedge is in comformity with the decision of the Court?

REPRESENTATIVE COPELIN:

I'll be more than happy to, and I'm sure that all the lawyers involved, Mr. Bruneau, as Mr. Deville has already stated they're lining up to file suit, I think everything is going to be in the record before all this is said and done, and that's the appropriate place to put it in the record.

REPRESENTATIVE BRUNEAU:

So you don't think it's appropriate to say in this Committee what the points of commonality are other than income and the fact that you feel the majority of the people are for the President's Health Care Bill?

[46] REPRESENTATIVE COPELIN:

No, that is not correct. That's your words, Mr. Bruneau.

REPRESENTATIVE BRUNEAU:

Then, please give me the other areas. I'm searching for them.

REPRESENTATIVE COPELIN:

What I'm saying, Mr. Bruneau, is that I will be more than happen to supply to you and the Committee a formal response as to what all the various common interests are. I'm hesitant to do at this point because whatever I say you're going to say it's not a common interest on the part.

But let me say, this is basically the same district that Gillis Long had for years and nobody seemed to have any problems with the common interests of the citizens at that time. I mean, it's one that has worked historically.

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[50] REPRESENTATIVE LANCASTER:

Mr. Chairman, I'm not going to be long. I just want to make a couple comments.

You remember when we did this the last time and I pointed out to you that sooner or later the Justice Department was going to meet the courts? [51] I think that day has happened. And the Justice Department, I believe, and I don't know what they are going to do because we haven't had enough time to really get into it, but I think the Supreme Court is going to give them a new criteria because it's my understanding the Supreme Court has authority over the Justice Department. So were really dealing with the Supreme Court right now and we're going to have to do what they say rather than what the Justice Department says because we did what the Justice Department said last time.

As a matter of fact, the testimony given this Committee was that we had to draw two minority districts or the Justice Department would not approve it. I think the man sitting next to you

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[55] REPRESENTATIVE REILLY

I look at this plan, and other than that major problem, I don't see it being that unartful. I think Mr. Copelin appropriately reflected on the old Gillis Long district. I have a copy of the 1980 reapportionment plan, and if it was projected on the screen and had colored districts, it would look every bit as artful or unartful as that one up there.

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[58] REPRESENTATIVE BRUNEAU:

Well, I can always go back and sing again, but I was just going to go ahead and sing through and I'll be very brief, Mr. Chairman.

I think all you need to do is look at the map and you can see that it was done solely on that criteria. It is not compact, and so far as commonalities of local interest, what local interest can Shreveport and Baton Rouge have together? It just boggles the mind that we can [59] sit in here and look at each other with straight faces and say that. I hope that whoever looks at this record, if somebody ever does, looks at the maps as well in doing it.

It just, once again, runs rough shot over the traditional political geography of this state because it starts off in mind with a premise that we must do this. And the bottom line is that the black population in this state is spread out to the point that you cannot have two black districts that fall naturally. One certainly falls naturally in most of Orleans and part of Jefferson Parish, but if you're going to make two then you have to create some type of unnatural being like this wedge.

And, again, the wedge is certainly not as bad as Zorro, but in reading the Court decision, I don't see how either one of them passed, but that's what courts are for. And, of course, if the other plan was so good, we heard how great the Zorro plan was, what happened to the proponents of the Zorro plan who said that it would meet all the tests? Why don't they just go to the Supreme Court with the Zorro plan if it's so good and see what Supreme Court says about that type of [60] reapportionment.

I think we ought to solve the question once and for all instead of going through 5th Circuit, let's go to the Supreme Court and see what they have to say.

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[71] REPRESENTATIVE COPELIN:

Thank you, Mr. Chairman.

First, let me say for the record, Mr. Bruneau, that I plan on sitting throughout the entire hearing because I'm interested to hear in detail the other proposals. I have some questions [72] I'd like to ask on them.

Secondly, I'd like to urge the Committee to vote favorably to send this measure to the floor. This bill does, in my opinion, comply both with the spirit of the Voting Rights Act and the recent court ruling that came down.

It runs from Shreveport to Alexandria and it goes along portions of the Red River, and I think that's a commonality. There are farming communities that I think also are common, and it's linked by a major transportation system, namely I-49 and portions of I-10. I think that's common.

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[107] REPRESENTATIVE BRUNEAU:

I'm trying to look at the map and figure out why it was necessary to do those things between the 3rd and the 7th district.

REPRESENTATIVE FLOURNOY:

It was absolutely necessary to get a minority district. I make no bones about it. The intent of this plan was to have two North Louisiana districts and two minority districts. I'm not going to wiffle-waffle with you on commonality interest. Specifically, that was the intent of why this plan was drawn because in my opinion the basic perception of the legislature is an interest in having two minority districts; a basic interest of North Louisiana is having adequate representation. This plan accomplishes both of those objectives.

TRANSCRIBED MINUTES FROM THE SENATE AND GOVERNMENTAL AFFAIRS COMMITTEE HEARING ON APRIL 18, 1994 FOR LOUISIANA'S CONGRESSIONAL REAPPORTIONMENT

LOUISIANA ATTORNEY GENERAL
EXHIBIT H-5
ACT 1 (1994)

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[9] BY MR. KOEPP:

Mr. Chairman and members of the committee, once again we're here to do redistricting for Congressional Districts and I guess a little brief [10] history, the reason we're here today is that after the redistricting rounds in 1991 were completed and the present Congressional District plan was passed, adopted, approved by Justice and implemented and seven Congressmen were elected, a suit was filed, actually prior to the election a suit was filed, but a three judge panel in Shreveport allowed the elections to go forward but maintained the case pending an outcome of a case in North Carolina in the Reno, the *Shaw v. Reno* case in North Carolina. In that case the Supreme Court set some guidelines down and held that plaintiffs in North Carolina had a right to bring an action on uh racial gerrymandering and that they had a claim under equal protection clause and sent it back to that court with uh, with District Court, the three judge panel in North Carolina, to try the case. That case has only been tried in the last month in North Carolina. The Louisiana case then picked back up and was tried here in [11] Louisiana under the guidelines as set forth by the Supreme Court case. The three judge panel, as all of you know, found the present

Congressional Districts in Louisiana unconstitutional and provided that, although they specifically said that they, the seven members of Congressmen that were elected by those districts shall remain in office for the duration of their term, which will expire next January, they made it very clear that those districts are unconstitutional and no other election can be conducted on them. In the mean time, as far as, or with regard to Federal Court intervention in State or Legislative redistricting and Congressional redistricting, the Federal Court, basically, finds fault and it leaves it back to the State, whatever that State organization is that has the authority to redistrict, to attempt to perfect a remedy under their decision. That is really where we are here today. Although we've appealed to the U.S. [12] Supreme Court the finding of fault in this case, it hasn't come up yet, the remedy stage is still to be tried and the U.S. Supreme Court has been very clear in other cases directing the District Courts that the Legislature should be given the opportunity to provide a remedy. And that's what we're here to do today to attempt to provide a remedy and that is to redistrict the State of Louisiana into seven Congressional Districts. It is the Legislature's responsibility to do so, the only difference now being that once the Legislature, assuming that there is an act passed that the Governor signs, it still has to be presented to the Justice Department under Section 5, Preclearance. After it is precleared, the Court, the three judge panel, still gets a shot at it, to take a look at it to see if, in fact, the Legislature, and whatever they done, has met the requirements that the Court set down in that case. The screen that is being [13] shown right now on the wall, of course, is Act 42, which the Court found unconstitutional, and the main discussion in that case is on the blue district, District Number Four, where they found that that district was in itself racial gerrymandering and based most of the decision of the case on that. Once that was done and uh the Legislature, or I should say the Senate, because I work for the Senate, and uh we started, the staff started working to attempt to put together some sort of plan or program that would meet the requirements that the Legislature has to do and uh could, in fact, meet Court requirements. Senator Nunez specifically asked me to work on producing a plan that if there was any way we could do it that would disrupt the least number of people in the State that would, in fact, not be geared to disrupt Republicans, or incumbent Republicans, or Democrats, or incumbent Democrats, as well as if there was a way [14] to maintain what we had obtained in the past, to do that. The result of that, as you know, I spent a lot of time working on it, there was a proposal that has now been, of course some modification was done to, but the proposal is presented as Senate Bill Number One, which I believe does what Senator Nunez and, of course, you Senator Bagneris and uh Brinkhaus, and others of you have asked me to do, and attempted to do that. In doing it uh I looked at a lot of past history in attempts to determine what we had done in the State of Louisiana in the past, remembering that in 1980 we had eight Congressmen and in '90 we lost one. And the State, in '80, was divided into eight Congressional Districts. It was done so in the '60's and the '70's. Uh, when, with losing a Congressman made quite a different burden own us to reshuffle the State. Each area, each old Congressional District, had they stayed the same would have still had to [15] increase in population by some seventy-five thousand people, and although when you're in a major metropolitan area seventy-five thousand people is not a large area. When you're in the rural parts of the State, you're talking about a number of parishes. We've got several parishes with fifteen and eighteen and twenty thousand, even two with under ten thousand in them, and when you try to build a district to increase by seventy-five thousand, you're covering a lot of area. One of the things that I also looked at, which we do and have done in the past, is regionalization, and what can we do in regions. If you will take a line across Louisiana in what I understand is considered Central and North Louisiana, it will include a line that includes Beauregard, Allen, Rapides uh, LaSalle, Concordia and Catahoula Parishes, and if you take those parishes North and look at the population uh, Sue, do you have that population count?

[16] BY MS. GUIDRY:

For what?

BY MR. KOEPP:

The North and the South stuff. Anyway, if you look at that population count in that area up there, in 1980, it was about twenty-seven percent of the population in Louisiana and it was more than enough to provide for two Congressional Districts. If you look at the Acadiana area,which is an area by Legislative Resolution back in the '70's it was designated as what was Acadiana, it was all the parishes in the Acadiana region. Those areas had enough population, they actually had about twenty-nine percent of the population of the State, more than sufficient enough to have two Congressional Districts. The 1990 population in Louisiana only increased by twenty-five thousand. It was much less than the national average. The result was that we lost a Congressman to some other state that grew more than we did. But at the same [17] time there was some loss of population North, in that North and Central region of Louisiana, the growth that occurred actually made up for that loss as well as increasing, most of which was in the metropolitan area of New Orleans and the Florida

Parishes. Right now if you take that total population and divide it in half you've got, you're about thirty thousand people short in those Central and North parishes of having enough population for two full Congressional Districts. If you look at the Acadiana region, and again it's everything below the uh, it's everything below the, what I call the Central/North Louisiana region, and virtually everything that is West of the Mississippi River is called Acadiana. That area actually had enough population for two Congressional Districts and some thirty to forty thousand more. So if you take those two areas and combine them together you do have enough population for four Congressional Districts, but the North [18] region would have to come down. And that's just a uh, the same situation occurs in the Orleans metropolitan area, there is sufficient population in that area for two, and in the Florida parishes for one, which makes up your seven Congressional Districts. When I was looking at all this information in attempting to uh, under the request that I got from the Senate leadership uh to put this together, I looked at some old historical Congressional Districts. One of the things that I found real interesting in the Court case is the Court talked about the fact that the Fourth District went, and it described from land area and land type to persons types to religion and uh socioeconomic backgrounds, I believe. One of the most interesting things that I discovered when I was looking at this background information was the old Eighth District, and I do not have the map down right now to put up on the wall, I wish I did, but the old Eighth District as we remember [19] in 1970 went up the middle of the State.

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[20] BY MR. KOEPP:

But the thing that I wanted to, I guess, make, and we'll get all that when the map comes down, but that district split parishes, as a matter of fact the Eighth District went to Natchitoches Parish, but it didn't take the whole of Natchitoches Parish, it split Natchitoches, it also split Winn Parishes. Also it took all of Sabine, was in the old Eighth, and that Eighth District went all the way from Sabine and Natchitoches Parish all the way to St. John Parish. It included people from different racial and ethnic and religious backgrounds. It included both red dirt and the soil of the Mississippi Delta bottom. So those things we've done historically. Another very interesting thing, if you will look at that map, the Fifth district in those days included the Monroe area and it went all the way to Lincoln Parish, and it took real whole parishes up there and then it came down through Concordia, [21] Catahoula and then around the corner into West Feliciana, East Feliciana, St. Helena and a small portion of Tangipahoa Parish. Uh, that plan was in 19, like I say, 1965, or so, and when we bring up the plan that I put together you will see a very close similarity between what was in the old Fifth District, twenty, thirty years ago and the way we've created the new Sixth District under this particular plan. One of the things I think the committee, and it is my opinion, that the committee should consider with regard to the Court decision, what the Court decision did was held what you did in creating redistricting in '91 was unconstitutional. You're here today to create a new plan, hopefully that is constitutional, and meets all other applicable statutes. So, to attempt to perfect a plan under the specific comments and guidelines established by the Federal Court where they were simply talking about what we had done in the [22] Fourth District, I don't think is really possible, and I think you need to take into account and consideration uh your obligation and duty simply to consider legislation that creates new Congressional Districts that meet what we believe and what you believe actually are the guidelines. Uh, if you are

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[41] BY SENATOR NUNEZ:

What does it do to the Third District?

BY MR. KOEPP:

The Third District becomes all of Jefferson Parish, Jefferson still gets cut three ways, there's a small cut into the Second District in Gretna. There is also the Sixth District, which is in green, comes into Jefferson Parish right out by the Airport, if you will. The rest of Jefferson is left in it and then all of—

BY SENATOR BRINKHAUS:

Terrebone and St. Mary.

BY MR. KOEPP:

Terrebone and St. Mary, yes, sir.

BY SENATOR BRINKHAUS:

No, Terrebone and Lafourche.

BY MR. KOEPP:

Yeah, Terrebone and Lafourche, I'm sorry.

BY SENATOR NUNEZ:

So Jefferson becomes a part of the—

BY MR. KOEPP:

It becomes, yes, sir, it becomes, yeah, [42] it's predominant and I think uh if you'll look in it in the Third District in that particular plan Jefferson Parish has four hundred and nineteen thousand people in it out of the six hundred.

BY SENATOR NUNEZ:

Tauzin's out of a job.

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[47] BY MR. KOEPP:

—as far as the Congressional District that is in it, embedded in it. This is [48] one of the things that I talked about earlier, and just to let you take a better look at what the State looked like the way it was redistricted in 1965, that's what the Congressional Districts looked like, and you can see uh, understand that there are two districts in green, one that starts in St. John. That particular district it splits Ascension uh, it goes up the river and it splits Natchitoches and uh, and Winn Parishes. Now, understand that these are, these are close estimates because we no longer know exactly the boundaries of the old wards and, that occurred, that were there then but we're real close. But notice the Fifth District, the similarity of where it turns the corner and goes into the uh, the Felicianas and across and takes a portion of Tangipahoa Parish, so that's, that type of drawing that I put together is very similar to what we have done in the past. We have a history of doing these type districts, it's not something [49] that we uh, so I would say that when you talk about traditional uh past guidelines of redistricting you have to consider all this, and that's the way we did it thirty something years ago. There's a lot of similarities between that and the way the particular bill that I prepared for you, Senator Brinkhaus, does, makes that draw. Understand this is eight districts, we went from eight to seven, so it does make some other changes.

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[55] [BY SENATOR BRINKHAUS:]

population. Additionaly, Senator Rayburn asked that we continue the Gillis Long district which you will see is the, now the Fourth District, which was the old Eighth, which at that time, prior to reapportionment was about a forty percent black district, enhance is it as much as possible while keeping parishes whole, which resulted in a 55.99 percent black district reaching up from uh Caddo down to uh the East Baton Rouge Parish area. The Seventh District is kept pretty much intact except it had to drive further North to pick up the additional people that were necessary [56] for it to be whole under the fact that we went from eight Congressmen to seven. The Third District is the same way keeping it, again, as many whole parishes as possible and community of interest. If you'll look you can see there are two Acadiana districts here, the two North Louisiana districts, I'll call it, are, in effect they have three up in North Louisiana but the Sixth District, the Florida parish district, historically is a Protestant, rural district that votes very similar to the voting that you see in the new Sixth that would be up in the Northeast part of the State, they have a great deal of similarities. The old Eighth District that has now been expanded up, again tries to keep a high influenced black district while at the same time holding together the traditional district that ran the Red River and the Mississippi River under Gillis Long, this keeps this all together. The Third District keeps all of the coastal and Acadiana region [57] together, the same thing with the Seventh. The First District takes in the bedroom communities, the Second creates the black district in the Orleans area that has been there for the last several years.

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[61] BY SENATOR THOMPSON:

What area, is that the Shreveport proper area there?

BY MR. BAER:

Yes, sir, that's Shreveport itself, it picks up the communities of interest out of Shreveport along the river that uh, with the rest of the river parishes, Red River, Natchitoches, the Rapides, Evangeline, St. Landry, Pointe Coupee, Iberville run, right down the river.

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[68] BY SENATOR BAJOIE:

Good morning. Uh, I'm Senator Diana E. Bajoie from New Orleans representing Senate District Number Five. I am here this morning representing the Louisiana Legislative Black Caucus as the elected Chair of the Caucus. The Louisiana Legislative Black Caucus by a majority vote of the Caucus do hereby support [69] House Bill Eight and Senate Bill Three which embraces the official position of this Caucus. The continuance of two majority black Congressional Districts. The Legislative Black Caucus believes that the District Court decision does not alter the necessity for Louisiana's Congressional redistricting plan to comply with the Voting Rights Act, and that such compliance requires the creation of two majority districts in which African-Americans will have the opportunity to elect candidates of there choice to office. Indeed in the brief that the Justice Department filed in *Hayes*, the department argued that Louisiana had a compelling State interest in drawing two majority African-American Congressional Districts in order to comply with Section Two and Five of the Voting Rights Act,; particularly in light of the Justice Department's Section Five, objections to the 1991 redistricting plan for the [70] Board of Elementary and Secondary Education, which created only one majority African-American district. No African-American was elected to Congress from Louisiana in this century until 1990, after the first majority African-American districts were created. Under these circumstances we believe that any remedial plan must contain two majority African-American districts for African-Americans to elect candidates of their choice to Congress. We believe that substantially more than a majority African-American voting age population is necessary for that purpose. In our view nothing in the Federal Court's opinion eliminates the need to create two such districts in order for the Louisiana plan to be in compliance with the Voting Rights Act. Therefore, the Louisiana Legislative Black Caucus stands strongly on it's position that in order for African-Americans in Louisiana to elect Congressional members of their [71] choice, should retain two majority African-American districts with a majority voting age population and nothing less is acceptable. I will enter this into the official record. I'll provide with you a copy of our statement.

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BY SENATOR GUIDRY:

Mr. Chairman, and members of the committee, I come to speak in favor of Senate Bill Number Three by Mr. Bagneris, and certainly I believe that the bill will meet all of the [72] requirements of the recent decisions, both the North Carolina decision and the *Hayes* decision, I think as relates to the number of parishes included in the district and the number of parishes that are split I think this plan does a good job so that those uh, particularly that the Court dealt with in terms of making sure that the districts were contiguous, to make sure that they were compact and that these common interests were served. I think those things will take place in this particular plan. But more importantly I think that the Voting Rights Act and the Constitution requires that each individual have an opportunity to participate in the electoral process and have the opportunity to elect a person of their choice, and uh in this particular case the African-American community of the State of Louisiana, if we follow those principles as are articulated in the Constitution and in the Supreme Court's uh litany of cases, I think that the creation, the [73] maintenance of two majority districts is what this Legislative Body ought to do, so I urge the members of the committee to adopt that particular plan that's before you. Thank you.

BY SENATOR BRINKHAUS:

Senator Guidry, isn't it correct that uh the difference between Senate Bill One and Senate Bill Three is essentially Sabine Parish is in the Seventh District in Senate Bill Three and there's a larger presence of the Fourth District in Lafayette and St. Martin, and those are basically the only two differences in the bills.

BY SENATOR GUIDRY:

Right. And the only other difference, I think there is a particular parish in uh, a particular precinct in the Opelousas area that would be added in Senate Bill Three, Mr. Bagneris' plan, but you're correct, the basic difference is the issues of Sabine and the additional individuals in the Lafayette, and of course, St. Martin was added as I [74] understand it, but those are the basic differences. The only other difference, and I think it's a pretty important district is that the percentage is raised on the Bagneris plan, it's raised from fifty-five percent in Senate Bill One to 56.1 percent in Senate Bill Three by Mr. Bagneris, and I think that's pretty important too in terms of the voting, the registered votes that are African-American, and certainly to the extent if nominally to 56.1 I think that will be important to assure the maintenance and the viability of two seats that are, could be represented by African-Americans. Thank you, Mr. Chairman.

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[76] BY SENATOR GREENE:

I think it's Five. I just want to give a little overview. Basically, we have two different categories of plans, one that creates a second minority district, one that uh, some that don't. Uh, what we want to do, and we get confusing input, I guess, we say we dont' have enough direction from Justice Department, they dont' give us anything in writng, they just give us some suggestions and it's secondhand. Also,

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[108]BY SENATOR NUNEZ:

If old, if Mr. Earl was still alive, Reverend, he would add the Louisiana Senate as one of those friends. We have always taken the moral high ground as you've probably recognized in your remarks, both you and Reverend Jemison. And even in this case from the '70's and the '80's and the '90's, we have strived to, always strived to give equal representation, meet the "one man, one vote" rule, meet the Justice Department guidelines, meet the Civil Rights Voting Act of 1965, and last year when we created the two black districts we were doing the same thing, but we did it in the Senate in the '70's and the '80's. Our directions, of Senator Bagneris and [109] Senator Brinkhaus and mine, to the staff was develop, number one, a district that has representations for two minorities. Number two, to meet the Federal, the Supreme Court guidelines. Number three, to meet the Justice Department guidelines. And number four, to be fair and equitable with the other Congressional Districts in keeping them whole. And I think that's what came out of the directions that we had given Mr. Koepp and Mr. Baer and their staffs. So

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[154] BY MR. UNGLESBY:

– I don't, I would not, in fairness okay, while I'm a lawyer and I'm supposed to know all of this, gentlemen, I'm not gonna suggest to you that I know the details of the process. Right now there's a judgment in effect, and that judgment's what brings the committee here and that's what brings this special session. If no one complains at the conclusion of the redistricting and the bill is passed, signed and filed and goes into effect and there is nobody

[155] who's suing and complaining about it that's the law. So we would like to accomplish two goals here, one, get this redistricting done in an efficient and effective way that protects all the rights of all the citizens and, two, if possible, likewise, avoid a lawsuit. Now, two may not be possible, but you're the only folks right now that are the named plaintiffs, you know. You're the ones that right now have the authority to go back and relitigate whatever we accomplish in the Senate and in the House and the Governor signs. So I was asking you, you've heard the nine proposals by the various individuals, you sat in court and listened to all of this, and according to the record, have actually employed Mr. Weber, who was accepted by the Court as an expert in the Voting Rights Act and in the redistricting litigation, of all the plans that the various people have proposed, do you have any that you feel fall within the criteria that, being [156] acceptable to Mr. Weber and to yourselves?

BY MR. STOKLEY:

Well, we really haven't had a chance to examine them and scrutinize them yet. I mean, we've looked and heard some, but no more so than if a client came in and said to you, well, here's basically this, you would go investigate them more thoroughly before you, besides I can't, I don't think we should be the ones telling the committee which plans to vote for, that's their process.

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[169] BY SENATOR BRINKHAUS:

Well, I'm uh, excuse me, gentlemen, I'm looking at page forty-seven of the opinion and that's where Dr. Weber says that, according to the Judges now, I'm presuming the, interpreting what he said properly, "the Plaintiffs' expert witness at both the trial and the Evidentiary Hearing testitifed that a plan could be devised that would include a second black majority district, yet still be significantly more compact and comport much more closely with other traditional redistricting principles". I was looking for the part where Dr., is it Lichtman, he appears on page thirty-two, but where he says that he could sit down, but I don't see that [170] that's the place.

BY SENATOR BAGNERIS:

It's just before it's on forty-six.

BY SENATOR BRINKHAUS:

Oh, on forty-six, the page before, where he says uh, okay, "Alan Lichtman", on page forty-six, "one of the Defendants' expert witnesses at the Evidentiary Hearing likewise testified that, were he to sit down with Dr. Weber (the expert on the other side) they could create a [second black majority] district that looked better than this one", and then that, what I had read earlier about Dr. Weber was that he could devise one "significantly more compact and comport much more closely with other traditional redistricting principles". So I don't think this is a mystery being hidden from anybody, it was in the trial.

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[176] BY MR. UNGLESBY:

Okay. Well, in the chance that you have had to see the multiple proposals, okay, and I think it's nine, actually eight different maps, nine different concepts, eight different maps, is there any of those that you feel either closely approaches what uh, either is acceptable to you or to Dr. Weber or is substantially divergent, completely divergent, and you can tell right away from what is acceptable to you or [177] proposed by Dr. Weber?

BY MR. STOKLEY:

All I can say, Mr. Unglesby, is that I have not looked at those detailed enough to answer that question honestly.

BY MR. UNGLESBY:

All right. Now, we got a letter from your attorney, actually written to General Ieyoub asking that, and putting the Senate on notice of an impending potential subpoena, and asking that uh quite a number on internal documents be maintained, do either of you gentlemen know anything about that? I started off asking you that because if you don't know anything about it there's no sense in me asking you any questions. You're familiar with that, Doctor?

BY MR. STOKLEY:

Yes, sir.

BY MR. UNGLESBY:

Okay. Can you tell us what was the point, purpose of that letter.

BY MR. STOKLEY:

I imagine to preserve all information [178] that might be had on drawing districts and so forth.

BY MR. UNGLESBY:

All right. The reason I ask you that is, is it because it is your plan, or that of your attorney with your assent, to file a lawsuit regardless of what comes out of this redistricting?

BY MR. STOKLEY:

No, that's not our intent. I'd like to see the State of Louisiana's Legislature pass a redistricting plan that fits the criteria that was asked for and outlined by the Court.

BY MR. UNGLESBY:

All right. Is it or not your position that a second minority district will violate the criteria set out by the Court, or do you have a position?

BY MR. STOKLEY:

I don't, I mean, if it meets the criteria by the Court then it would be acceptable, certainly.

BY MR. UNGLESBY:

Okay, all right. So the creation of a [179] second minority district in and of itself does not result in litigation from your, from your point of view?

BY MR. HAYS:

Oh, good Heavens, no.

BY MR. STOKLEY:

No, Heavens no.

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[203] BY SENATOR BRINKHAUS:

Okay. Let me ask this, did ya'll have any input into any of the plans that are before the Senate Committee now?

BY MR. HAYS:

Yeah.

BY SENATOR BRINKHAUS:

Which one, or ones, was that?

BY SENATOR CHABERT:

I thought that was the original question when we first started, that was what we were trying to find out, if ya'll had [204] input in any of these plans.

BY SENATOR THOMPSON:

Sure they did, and I called Glenn Koepp and told him that they were gonna have input into it and he just can't take it uh—

BY MR. HAYS:

We were down with Glenn—

BY MR. KOEPP:

It's your Senate Bill.

BY SENATOR THOMPSON:

Yeah, my Senate Bill, that's what it is, and uh, and uh—

BY MR. HAYS:

We were down with Glenn last week working with him.

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[207] BY MR. KOEPP:

—but the plan as, as the plan that is being prepared, that is being uh, that was put forward is the one, it's got a consensus of Congressmen, they had nothing to do with the, with the drafting of that plan, the putting of that plan together, I did that late at night by myself at the request of several members of this Legislature, three of which are sitting up here, Senator Bagneris, Senator Brinkhaus and Senator Greene, who was actually working with me when we actually hit the, –

BY SENATOR THOMPSON:

Sure, I understand.

BY MR. KOEPP:

–that particular configuration. Uh, [208] it was done, as I testified earlier, in an attempt to disrupt the least number of uh districts, if you will, to try to meet the Court requirements of compact, contiguous districts as best we could. Certainly, considering incumbency, which I did, so, no, they didn't, they saw that after the fact. They didn't see that plan until it was, it had been there for at least a week and I think Senator Chabert is the one.

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[209] BY SENATOR THOMPSON:

But my question was did, were you approached by various members of our Congressional Delegation to, to draw up a plan or give some demographics and numbers and percentages and so forth, did they or did they not?

BY MR. KOEPP:

Yes, sir. And let me make it, what I told you was, they had drawn a plan, and I don't know where they did it, they did it in Washington, and I'm not sure who was involved in it, but it was delivered to my office and I was asked to put it into our system so that we could produce the demographics from our system to see whether or not it worked and what were the results of that plan. It was very, very general, it was uh, put X number of people or about so many from this parish and this parish, or whatever, I did that and that is available, I do have that plan.

BY SENATOR THOMPSON:

[210] Uh, –

BY SENATOR BRINKHAUS:

What I understand, excuse me, Steve, –

BY SENATOR THOMPSON:

No, go ahead, Mr. Chairman.

BY SENATOR BRINKHAUS:

Well, no, but do you—

BY MR. KOEPP:

But it was dropped.

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[218] BY SENATOR BAGNERIS:

Did I understand that the Thompson plan had input from Dr. Stokley and Mr. Hays?

BY MR. KOEPP:

Mainly Senator Thompson had a plan that I, I assume, or I guess, came originally from the plaintiffs. He asked me to uh put this into our system, and I did meet with them to talk about the differences, and uh our database is somewhat different from theirs. They have a database, their expert has a database that is actually uh, the precincts in it are pre-1990, ours have been changed a number of times since then, and so there are some differences and I did, Senator Thompson did get me to do that.

BY SENATOR THOMPSON:

My, yeah, Senator Bagneris, I uh, my problem with the plan is, is not a minority black district, it's that North Louisiana is being disenfranchised by having only one Congressional District. [219] That was my reasoning for, I called Glenn and discussed it with him and discussed it with the plaintiffs. That is the basis of my filing the bill. Uh, we're looking at, if the plan that we're looking at and the one that I suspect is gonna come out of here, we're gonna have one Congressional District in North Louisiana, and uh I think that's unfair. We're being disenfranchised, and on top of that, anyone who runs for these Congressional Districts, they will, if it comes out like I think it will, they will be from Baton Rouge South, and that's, that is the basis of my filing the bill.

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[222] BY MR. KOEPP:

I got the uh, the one that seems to be a, in the late '60's and then the one [223] that's passed for '72 to '80.

BY SENATOR BRINKHAUS:

Did you have the '80 one done up also so you can do the overhead?

BY MR. KOEPP:

Yes, sir. Didn't we, –

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[227] BY SENATOR CHABERT:

Anyway, when Koepp was here I was gonna try and clarify that. Koepp gave, I got a map that was sent to me that I gave to Koepp from the Congressmen, okay. Glenn is, he's sending somebody for it right now. I will be more than happy to show it to anybody and everybody who wants to see it because after we looked, and like Senator Greene and Bagneris and all, and Thompson, I spent a lot of time up there on the computer with Glenn and, quite frankly, that's why I was pleased when I saw ya'll throw up this Eighth Congressional, the old deal, because that's what Glenn said. I came there one morning at 7:30, 8:00 o'clock, Glenn says, "I got it, the old 8th, this is what we got to work off of", and quite frankly, that's how the thing came off of, and I think he had some conversation

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[235] BY SENATOR BRINKHAUS:

What I would like to see is the display, if you have them ready, of the '60's, '70's and '80's Congressional reapportionment.

BY MR. KOEPP:

There's one thing that uh is interesting to note, that it looks like in the late '60's that the Louisiana Legislature was doing redistricting a lot more than we were. It seemed they did it every two years for a while there. Uh, but what I have is uh, the, I got three previous—

BY SENATOR BRINKHAUS:

[236] Do you have need some enlightenment at the desk?

BY MR. KOEPP:

Not right now. Uh, I got three previous plans that I'm gonna put up.

BY MS. GUIDRY:

Do you have them?

BY MR. KOEPP:

Yeah, they're right here in order.

BY SENATOR BRINKHAUS:

I wish you'd refer to those as laws dealing with reapportionment, Congressional Districts as distinguished from plans.

BY MR. KOEPP:

They are, they were, this is the statutes in uh '70, well, uh '60.

BY MS. GUIDRY:

'65.

BY MR. KOEPP:

Yeah, but it was in the '60's, but this is the uh, this is the districts they ran on in '70, and if you will notice the, the top green district is the one I'd talked about earlier that goes from [237] Natchitoches, in Natchitoches Parish, although Natchitoches Parish is split, there are a few precincts that are not in, they're in the dark blue district, which is, I believe, Number Four up in the Caddo area and also Winn Parish.

BY SENATOR BRINKHAUS:

That was Joe Wagner's district and to the right was Congressman Otto Passman's.

BY MR. KOEPP:

Right. And if you will notice that the Fifth comes down through Concordia Parish and then goes to the East in the

Florida Parishes in the districts of, and in the area of uh East and West Feliciana, St. Helena and a portion of St. Tammany. Now, again, I reiterate that these are, Tangipahoa, I'm sorry. Again, I reiterate that these are, these maps are approximations because we no longer have the exact figures and it would take quite a while to pull them out, but at least we know what was split and what wasn't under the statute and [238] that's the way this was put together.

BY SENATOR BRINKHAUS:

Excuse me, you said approximations, let's talk about Tangipahoa, it did take in part of Tangipahoa, you just don't have, –

BY MR. KOEPP:

Up on that top end.

BY SENATOR BRINKHAUS:

All right. You just don't have that precinct data available today?

BY MR. KOEPP:

Right, exactly. It was more Ward data back in those days and they were invisible boundaries that we no longer have in old Wards, so, and I can read you exactly what was in it, but it did split that area. The Eighth District, like I said, went from Sabine and Natchitoches Parishes, and as best as I could figure, as best as I could figure out it looked like it actually went uh, the portion of uh, of Natchitoches that was in it went all the way to Red River and DeSoto, because that side of [239] Natchitoches, it seemed like from the, from the number count that I was looking at and some old maps that I had had that uh the cut for Natchitoches was in the Northeast part of Natchitoches that went into the uh, the Fourth District on the top. So the Eighth District came all the way down, it took a portion of, and split Ascension Parish, and then went on into St. James and St. John, if you notice. So it goes from St.

John all the way to the top of Natchitoches in this particular one.

BY SENATOR BRINKHAUS:

Wait, excuse me, Glenn, let's talk about the Eastern most end of it, is that St. John, the Eastern most direction it went?

BY MR. KOEPP:

Yes. Southeast, South and East is St. John.

BY SENATOR BRINKHAUS:

All right. Can you do a progression in naming those parishes for me, starting with St. John?

[240] BY MR. KOEPP:

Okay. It's St. John and St. James, the piece of Ascension—

BY SENATOR BRINKHAUS:

All right.

BY MR. KOEPP:

And it's got Iberville, Pointe Coupee then it's got—

BY SENATOR BRINKHAUS:

West Baton Rouge.

BY MR. KOEPP:

—West Baton Rouge, I'm sorry, yes, it does have West Baton Rouge, Pointe Coupee, Avoyelles, and then it has Rapides, Allen, Beauregard, Vernon, Sabine, a portion of Natchitoches, a portion of Winn and LaSalle.

BY SENATOR BRINKHAUS:

And Grant?

BY MR. KOEPP:

Grant, I'm sorry.

BY SENATOR BRINKHAUS:

Grant's just North of Rapides, okay.

BY MR. KOEPP:

It doesn't have any of St. Landry in it.

[241] BY SENATOR BRINKHAUS:

No, that's not, none of St. Landry is in it. St. Landry was traditionally in the Seventh Congressional District from the time –

BY MR. KOEPP:

Right.

BY SENATOR BRINKHAUS:

– whence the memory of most men and women ran not to the contrary.

BY MR. KOEPP:

Right.

BY SENATOR BRINKHAUS:

It was in 1972 when the new Eighth District came in that it put Evangeline and St. Landry.

BY MR. KOEPP:

Right. We'll look at that in a second, but the Third took all of uh, Lafayette was in the Third in that time and it went down uh to St. Charles, and Lafourche is as far as it went to the East. The Sixth District took in East Baton Rouge, the Northern half of Ascension, Livingston, uh the bottom of [242] Tangipahoa, Washington, all of Washington and all of St. Tammany in that time. And then, historically, if you remember, Orleans Parish and Jefferson Parish were basically split, both of which were split between the First and Second. And it was in 1980 that we made Orleans almost completely whole. Orleans was enough for a whole Congressional District in 1980, plus an additional twenty-six thousand, I believe, that we had to cut out for "one man, one vote" that went into the First. But that was the first time that that district became, in the Orleans area for some time, was in a single Congressional District, and this plan split them both. Then we, the next uh change was made for the election in 1972.

BY SENATOR BRINKHAUS:

All right. Now, prior to that, prior to the '72 thing, while you're getting your map up, you had Edwin Edwards in the Seventh, Pat Caffrey in the Third, what, Edwin

Hebert in the First, and who was [243] in the Second in those days? The Sixth was Jimmy Morrison, I believe.

BY MR. KOEPP:

Boggs?

BY SENATOR BRINKHAUS:

Hale Boggs, yes, Hale Boggs and Edwin Hebert then would be First and Second, then Jimmy Morrison and, I guess, Speedy Long in the '60's, and then Otto Passman and Joe Wagner. Now, what we are seeing is the 1972 reapportionment?

BY MR. KOEPP:

Yes. And in '72, I think if you remember what it looked like, what happened is, all these districts start shifting South because the population started growing in the South and not in the North. The districts came down, you see the Eigth District came out of uh, all of Vernon, Sabine, Grant, what it had in Winn, what it had in Natchitoches, and a portion of what it had in the uh—

BY SENATOR BRINKHAUS:

Beauregard.

[244] BY MR. KOEPP:

—Rapides.

BY SENATOR BRINKHAUS:

And Beauregard and Allen.

BY MR. BAER:

Rapides, yeah. And it pushed down, so you can see the drastic changes that started occurring and the district started moving to the South, and that's because of population shifts. Uh, the Eighth District still went from the top of Rapides in that time all the way through St. John Parish. It took uh, in that time split and took a piece of Livingston off the bottom, it was a portion, and it took uh Assumption, St. James, Ascension, then Iberville, West Baton Rouge. It took uh Pointe Coupee and a portion of West Feliciana, and I guess this was the first time you said that St. Landry went into the Eigth District and out of the old Seventh. It took Evangeline, a piece of Allen, a portion, or the largest portion of Rapides, and all of Avoyelles, and that [245] was '72 to '80. Then in '80—

BY SENATOR BAGNERIS:

Glenn, before you take that map off, is that Jefferson Parish that's split three ways?

BY MR. KOEPP:

I believe Jefferson was split three ways in the '70's, and the '80's, and the, I mean, in this first map I showed you it was split three ways, and I believe it's split three ways here too.

BY SENATOR BRINKHAUS:

Well, it appears to be—

BY MR. KOEPP:

Yeah.

BY SENATOR BRINKHAUS:

—from what I'm looking at, because the one from the '60's was the first one you showed, and this is the,—

BY MR. KOEPP:

And it was split three ways then.

BY SENATOR BRINKHAUS:

—and this the '72 reapportionment,—

BY MR. KOEPP:

Right.

[246] BY SENATOR BRINKHAUS:

—and it's split three ways again?

BY MR. KOEPP:

Right. It sure was, both times. And then in 1980, there was uh, not a whole lot of shifts that occurred during that time, but the Eighth District did change slightly. It took more of Feliciana, it took both, all the rest of Feliciana, West Feliciana, all of East Feliciana, St. Helena, and it cut into, for the first time, East Baton Rouge Parish, and that's the first time we saw East Baton Rouge being split.

It still split Allen, and it went to St. John as before. And that's the one uh that we had until 1990, and Jefferson is split three ways in that district, in that plan.

* * * * *

[247] BY SENATOR BRINKHAUS:

And I'm curious, how many parishes are divided, you have Beauregard and Allen, Baton Rouge, Rapides, looks like a part [248] of Avoyelles.

BY MR. BAER:

Jefferson and Orleans.

BY SENATOR BRINKHAUS:

Jefferson and Orleans, of course.

BY MR. KOEPP:

Yes. Seven or so.

BY SENATOR BRINKHAUS:

Okay.

BY MR. KOEPP:

But historically we have divided parishes, that's not something that uh—

BY SENATOR BRINKHAUS:

But we've divided them especially after the "one man, one vote" after,—

BY MR. KOEPP:

Right.

BY SENATOR BRINKHAUS:

—which occurred for the reapportionment after 1970.

BY MR. KOEPP:

Really it occurred in that 1970, and since then we've been, you know, the '70 map you saw and then in the last two, [249] took that into account. So historically and traditionally.

BY MR. BAER:

After the Voting Rights Act was passed.

BY SENATOR BRINKHAUS:

Okay.

BY MR. KOEPP:

But that's a progression and when, and I bring this to the Committee, and I guess we need to make it a part of the record because all of this was part—

BY SENATOR BRINKHAUS:

Yeah, I want it part of the record.

BY MR. KOEPP:

—of the considerations in what we were looking at in our attempt to create a district, or a set of districts, that were acceptable, that uh created as little disruption as possible, that tried to meet the, or met the requirements that the Court had and the three judge panel. And when you looked at this historical, in a historical perspective of what was going on these things uh, you can see how the, the plan [250] as presented as plan One and Three came out to be developed.

BY SENATOR BRINKHAUS:

Well, it, go ahead, had you finished your statement.

BY MR. KOEPP:

Yes, sir.

BY SENATOR BRINKHAUS:

Well, it occurs to me that certainly in the 1980 reapportionment, but even more so in the first one after the Voting Rights Act in the '60's, had extensive uh, well, drawing of districts that had pockets, and particularly, that, what I would call the Fifth District in one of them, that I saw coming down from Monroe area, that would be the one from the '60's. As I recall it came down from the Monroe area and across into the Florida Parishes North of Baton Rouge,—

BY MR. KOEPP:

Right.

BY SENATOR BRINKHAUS:

—which is comparable to both, [251] comparable both to what we're doing with what we're calling now the Sixth District, Richard Baker District.

BY MR. KOEPP:

Right. It's the same, same turn that's being made through those same parishes, so this has been done before, it's not something that's new or we haven't looked at. It was in existence for some time and Congressmen were actually elected from there.

* * * * *

[252] BY MR. KOEPP:

—Orleans and Jefferson were both split, basically split between the First and Second Districts all during that time. There were different splits uh, if you look at the old uh, I believe, the '66 and '68 Acts, they were, they talked about street splits, going along certain streets in Orleans and that's how they split it. And then by uh the '70, they were talking about Wards, and they were doing it at the Ward level, [253] across the State we were splitting at the Ward level basically. And, of course, we've done, we've, in essence, done away with Wards in Louisiana and we are at the precinct level and the precinct is our building block. That's the smallest building block in Louisiana that we do use for redistricting at the State level as well as Congressional.

BY SENATOR BRINKHAUS:

You know, one of the things that strikes me, people tell me "Ya'll sure do crazy reapportionment", whether it's a Police Jury District or whatever, and when you consider that the census tracking I'm going to call it, and has to be visible boundaries and then Jury Precincts or Parish Precincts and Wards have to do the same thing and then have some geographical or, rather demographic balance on a population basis and otherwise on that, you absolutely have to have it. If you look over at, is it Allen Parish, you can see on the edge of that you can't get a straight line [254] because all those precincts have, have the beginning of that with the 1980 census and the reapportionment flowing therefrom.

BY MR. KOEPP:

Mr. Chairman, you bring up a very valid and a very important point for Louisiana. If you were to look at a State like Kansas, everything is square. Every,—

BY SENATOR BRINKHAUS:

Sections and township.

BY MR. KOEPP:

—every section has a section road. The State is just literally squared across its entirety, and when they do redistricting, they've got nice, square roads all over the Counties and all over the State to do redistricting on. Louisiana, on the other hand, we have rivers, streams and bayous are our major dividing points. We don't have any square parishes, virtually. Uh, most of the boundaries are some sort of a waterway, and interesting enough we have [255] a small area in New Orleans that is not even a whole uh precinct down there that, in the computer, has more points that, in the computer, has more points in it for that area than a whole State does in the, up in the West, because it's got so many bayous and islands and that sort of stuff. So, yeah, when you try to draw real square districts in Louisiana, that doesn't uh, that doesn't work even if you're using whole parishes, because we do have, the boundaries are based on, to a great, great extent, on waterways and creeks and rivers and streams.

BY SENATOR BRINKHAUS:

Well, then, and then there are very few square sections in, and I have read books on surveying about Louisiana, and what happened, people moved to Louisiana or came here from wherever they came from, and were given or acquired, given by the Crown of whatever country or nation and/or bought from Indians, and typically it was bought fronting on a bayou or a stream one or two or three [256] arpents by the depth of so many arpents back or, then it became acres later on, nomenclature to use. And then when the government surveys came in the early eighteen hundreds they assigned sections to those irregular pieces of land and then to the Western parishes, because I notice it in particular because of St. Landry you had Evangeline, Acadia, Jeff Davis, I think probably Allen and Beauregard, but certainly Calcasieu and Cameron came out of St. Landry Parish, and when you get to the West, in the unpopulated, or away from streams, you have regular sections that are square and townships that are, well, townships are all squared, but you have regular sections. Where those irregular sections crossed the township line they simply assigned it another number in the adjacent township. So that maybe Glenn Koepp's tract, black acre piece of land crossing a township line would be in Section Seventy in one township, Seven South Range Four East and when it got to [257] Range Three East it was maybe eighty-nine, Section Eighty-nine.

BY MR. KOEPP:

Right.

BY SENATOR BRINKHAUS:

But that accounts for all the funny looking things that we have, I think, with our reapportionment. And I just wanted to observe that because I've done a lot of title examinations in, at least my area of the State, in trying to figure out how we had these things versus states that were developed later in the evolution of this nation. Have you concluded this part of your presentation?

* * * * *

[258] BY MR. KOEPP:

This is the first uh, Senate Bill One and uh—

BY SENATOR BRINKHAUS:

Now, let me ask you this, tell me how that meets all of these things that I've been reading in the, in the *Hayes* case and the issues that the judges pointed out?

BY MR. KOEPP:

Well, Mr. Chairman, first of all, in the *Hays* case they were analyzing the Fourth Congressional District as that [259] Fourth Congressional District was drawn in Act 42. And the uh, I don't think that their, what the Court found is, and what the U.S. Supreme Court seemed to say in the case *Shaw v. Reno*, was that racial gerrymandering was not illegal but was suspect and had to have, required strict scrutiny. And the Court said that there were, there are two real tests that you have to meet. One, that you have an overriding State interest to create that minority district. And two, that it is narrowly tailored to meet that overriding State interest. And the Court talked about and accepted the fact and just, just, they just never really analyzed or decided whether or not we had an overriding State interest, they just assumed we did. And their real analysis in the case is, deals with, is the plan narrowly tailored. And they found that in their, a lot of their discussions about gobbling up minority areas as it progresses through, across the Northern part of the State and down [260] and the quote they have about the sword of Zorro says that when we created that district with sixty-three percent registered voters, a seven, sixty-seven percent minority district, that we did not narrowly tailor it. And what the interpretation seems to be that once you get to that point that you meet the overriding State interest, and if that is to create a second minority district, and as soon as it is done you have to stop. And the cases seem to say that the Voting Rights Act doesn't guarantee the election of a minority in a minority district, but it guarantees them the equal opportunity to participate in the electoral process and the opportunity to elect a candidate of their choice. Even in this case the Court talked about a fifty-five percent voting age population, and I stated other uh, stated earlier in most situations across the country voting age population is the real key that they use instead of registered voters. Our registered voter [261] data is more accurate than the actual voting age population and so I think they really did interchangeably use those terms. If you will look at the bills that are presented, this Senate Bill right here, Senate Bill One, and I need to get a copy of it in front of me to talk about the, but the registered voter in it is, the bill does have, in the Second District, 55.67, I believe, percent registered voter. Interesting enough, and I don't have that statistic here, but the voting age population in this particular plan is about fifty-four point some percent. Now, when, the way we did Act 42, although the Court zeroed in and talked about the Fourth District, they also made references to the Sixth in other plans, and the fact is that we didn't need to create as bizarre districts in the other districts that we did, but we went ahead and did it anyway for whatever purpose at the time. And I think the Court was taking and looking at all of the circumstances in [262] that and although they zeroed in on the Fourth they also talked about the other districts that were out of kilter. In this plan, if any district is not drawn in square patterns it is only the Fourth and the ones that border on that drawing. And as far as the rest of the districts we don't do anything, I mean, we do very much to keep them as, if you will, look like, and the picture of them to be compact, and they all are contiguous. Another thing that is interesting to note, the Court talked about keeping political subdivisions together. They did mention parishes but another big political subdivision in the State, of course, is all the towns and villages and communities. In Act 42 we, literally, went through numerous very small towns in the State and if it had four or five precincts, two of which were minority and three which were majority, we split right up through those and took the minority precincts and put them in District Four and the [263] majority precincts and put them somewhere else. The only splits, I don't believe there are any small communities in this plan that are split. The only towns that are split, or major areas that are split, is Lafayette, Baton Rouge, Alexandria and Shreveport. The other towns are maintained, or cities are maintained whole as units. You can make this district like we did before, much higher than a fifty-five percent, but following the Court mandate that you narrowly tailor your plan, we did that. This plan is narrowly tailored to go to fifty-five percent. It creates a minority district, but it doesn't go beyond that. It gives minorities an opportunity to elect a candidate of their choice. It gives them access to the political process. Yes, in 1991 when we did the plan, the Court talked about, and one of the, one of the things that we put forward, of course, was incumbents, and consideration of incumbents, and the [264] Court makes a real pointed statement that there was no incumbent considered when the creation of the Fourth District was made and it wasn't made because of incumbents, that's true. Incumbents were considered in this, including an incumbent in this, and will be in this Fourth District, that is true, we did consider that. So we tried to keep units and communities that, in the past, have been together. Yes, it does stretch further to the North than the old Eighth did, but remember we only have seven Congressional Districts now, not eight, and I submit to you that if we would have maintained our Eighth Congressional District our job would have been much easier. It will have looked shorter and more compact and still been a significant minority district. So the loss of a Congressman has caused quite a bit of changes and disruptions across the whole State.

BY SENATOR THOMPSON:

I have a question.

STATE EXHIBIT 4

District Summary

Total Population and 1994 Registered Voters
Plan: ACT 1 1994 2ND ES

type: CONGRESSIONAL FOR 1994

District Name	Total Pop.	Total White	Total Black
District 1	602,919 100.00%	516,833 85.72%	71,521 11.86%
District 2	602,817 100.00%	214,029 35.50%	367,600 60.98%
District 3	602,860 100.00%	461,661 76.58%	124,284 20.62%
District 4	602,850 100.00%	245,541 40.73%	351,890 58.37%
District 5	602,888 100.00%	431,631 71.59%	165,480 27.45%
District 6	602,863 100.00%	484,383 80.35%	110,230 18.28%
District 7	602,776 100.00%	485,060 80.47%	108,276 17.96%
Total	4,219,973 100.00%	2,839,138 67.28%	1,299,281 30.79%

STATE EXHIBIT 4—Continued

District Summary

Total Population and 1994 Registered Voters
Plan: ACT 1 1994 2ND ES

type: CONGRESSIONAL FOR 1994

District Name	Total Reg. Vot.	Total Reg. Wh.	Total Reg. Blk.
District 1	332,958	296,713	31,844
	100.00%	89.11%	9.56%
District 2	291,915	108,886	177,092
	100.00%	37.30%	60.67%
District 3	330,882	262,159	66,034
	100.00%	79.23%	19.96%
District 4	314,375	138,792	173,714
	100.00%	44.15%	55.26%
District 5	316,812	240,284	74,976
	100.00%	75.84%	23.67%
District 6	351,653	292,990	56,044
	100.00%	83.32%	15.94%
District 7	318,781	267,645	49,208
	100.00%	83.96%	15.44%
Total	2,257,376	1,607,469	628,912
	100.00%	71.21%	27.86%

STATE EXHIBIT 13

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-15222S

RAY HAYS, ET AL, PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

DECLARATION OF DR. RICHARD L. ENGSTROM

Pursuant to 28 U.S.C. 1746, I, Richard L. Engstrom, make the following declaration:

Congressional District 4 in Act 1 of the Second Extraordinary Session of the 1994 Louisiana legislature is a district in which African Americans constitute 58.37 percent of the total population and 54.41 percent of the voting age population as of 1990, and 55.26 percent of the registered voters as of January, 1994. The plaintiffs in this case have alleged that this district is a "packed" district that contains "more black voters" than is "reasonably necessary" to provide African Americans with a "realistic chance" to elect a candidate of their choice (Plaintiffs' Memorandum in Support of Motion for Preliminary Injunction at 14). The plaintiffs further suggest that "districts with thirty-five (35%) to forty-five (45%) percent black citizens" would be sufficient to provide African Americans in Louisiana with such a realistic chance (*ibid.*, at 16). The electoral history of this state, reviewed below, supports neither of these assertions.

Congressional Elections in Louisiana

African American voters in Louisiana have registered a preference for African American candidates over white candidates in congressional elections on nine occasions since 1984. On only three of these occasions has the African American candidate been elected, each time in a district in which African Americans constituted a majority of the electorate. An African American majority has not been a sufficient condition for the election of African American candidates, however, and no African American candidate has won a congressional election, at least in this century, in a district in which whites constituted a majority of the elctorate.

The first election of an African American to Congress this century did not occur until 1990, when William Jefferson was elected in District 2, a New Orleans-based district created following the *Major v. Treen* decision [574 F. Supp. 325 (E.D. La. 1983)]. The election of an African American in that district was ensured that year when, as a consequence of the October primary, two African Americans advanced to the November runoff. The African American percentage of the registered voters in the district had increased to almost 60 percent (59.9) by the time of the 1990 primary. While African Americans constituted a lower percentage, 59.2, of the people receiving ballots that day, they are estimated to have been 60.0 of those voting in the congressional contest. (This and all following estimates of voting behavior contained in this report are based on weighted regression analyses.) The candidate of choice of the non-African American voters in this election was a white candidate, Harwood Koppell, but Mr. Koppell received only a plurality, 45.1 percent, of their votes.

In 1992 Mr. Jefferson was reelected in the October primary from the new District 2 created by Act 42 of the

1992 Louisiana legislature. African Americans constituted 60.2 percent of the people registered to vote in that primary. While they again constituted a lower percentage of the people receiving ballots that day, 58.3, they were estimated to have once again been around 60 percent (60.1) of those voting in the congressional contest. Mr. Jefferson received over 70 percent of the votes cast in this election and was the choice of both the African American and the non-African American voters. One of his opponents was a white candidate who received only 11.1 percent of the votes cast.

A second African American was elected to Congress in 1992, when Cleo Fields was elected from the Fourth District created by Act. 42. The election of an African American in that district was also ensured when, as a consequence of the October primary, two African Americans advanced to the November runoff that year. African Americans constituted 63.3 percent of the people registered to vote in that primary. In this election they constituted an even higher percentage, 65.8, of the people receiving ballots, and an estimated 66.6 percent of those voting in the congressional election itself. The candidate of choice of the non-African Americans in this election was Steve Myers, who received an estimated 23.1 percent of their votes.

An African American majority has not been a sufficient condition to ensure the election of an African American candidate of choice, however. In 1984 an African American candidate, Israel Augustine, sought the newly created District 2 seat against an incumbent, Lindy Boggs. Voter registration in the district at that time was 54.9 percent African American, very close to the figure for District 4 in Act 1, and well above the 45 percent upper limit that plaintiffs have suggested is sufficient for African Americans to determine the outcome of elections. Data reflecting the number of African Americans and non-African Americans receiving ballots that day are not available for elections prior to 1988, but the estimated participation rates in the congressional election itself are close to equal, resulting in African Americans constituting 54.5 percent of those voting in this election. Mr. Augustine was the choice of the African American voters in this district, but was not elected because he received far fewer votes from non-African Americans than Ms. Boggs received from African Americans. Mr. Augustine receiving an estimated 64.4 percent of the votes cast by African Americans. Ms. Boggs on the other hand received over 90 percent (90.5) of the votes cast by the non-African Americans and 34.6 percent of those cast by the African Americans. Mrs. Bogggs therefore defeated Mr. Augustine, 60.1 percent to 38.6 percent.

African American voters have shown a preference for African American candidates on five other occasions since 1984. These have all occurred in what was then District 8 in the districting arrangement adopted following *Major v. Treen*. District 8 had the second highest concentration of African American voters in that eight district arrangement. African American candidates sought that congressional seat in 1986, 1988, and 1990. The district had an African American population of 38.42 percent in 1990, and a voting age population of 35.94 percent. Voter registration in the district was around 35 percent African American in each of these elections. Despite support levels among the African American voters that often exceeded 90 percent, the African American candidates were always vetoed by the non-African American voters in this district.

The first attempt by an African American candidate to win the District 8 seat was by Faye Williams in 1986. Voter registration at the time of the 1986 primary in District 8 was 35.3 percent African American. The estimated percentage of African Americans among those voting in this congressional election was 34.6. Ms. Williams was the choice of an estimated 68.3 percent of the African American voters but only 3.3 percent of the non-African American voters. The remaining non-African American vote was divided among four white candidates, allowing Ms. Williams to finish first in the primary with 25.6 percent of the votes and advance to the November runoff with a Republican candidate, Mr. Clyde Holloway, who received 23.1 percent of the votes.

Between the primary and the runoff election, non-African American voter registration increased by 11,111 while African American registration increased by only 851, reducing the African American percentage among those registered to 34.7. Participation in this runoff election was extraordinarily high, given that there was not a simultaneous presidential or senatorial election that day. African American participation in the runoff (estimated to be 67.3 percent of those registered) was almost four percentage points higher than that for the non-African American (63.4 percent), resulting in African Americans constituting an estimated 36.0 percent of those voting in this election. The level of support for Ms. Williams among the African American voters is estimated to have been 97.0 percent. Despite this African American mobilization and near unanimity for Ms. Williams, she still lost the election because close to 80 percent (78.4) of the non-African Americans voted for her opponent, Mr. Holloway. This resulted in Ms. Williams receivng 48.6 percent of the votes and therefore losing the election.

Ms. Williams attempted to unseat Mr. Holloway in the next election, in 1988. Voter registration was back up above 35 percent (35.1) African American for the 1988 primary. African Americans constituted 35.3 percent of those receiving ballots in this election, and an estimated

36.0 percent of those actually casting votes in the congressional race. Ms. Williams' support among the African Americans is once again estimated to have been above 90 percent (91.0), while her support among the non-African Americans was again only 3.3 percent. Her African American support was sufficient to place her in a another runoff with Mr. Holloway. Ms. Williams received 34.2 percent of the votes cast in this five candidate election, compared to Mr. Holloway's 43.6 percent.

Voter registration for the runoff election remained above 35 percent (35.2) African American. While African Americans constituted a lower percentage, 34.3, of those receiving ballots in this election, they are estimated to have cast 35.2 percent of the votes in the congressional election. Ms. Williams is again estimated to have received over 90 percent (96.7) of the votes cast by African Americans. She again lost the election, however, because 85.1 percent of the non-African Americans supported Mr. Holloway. This left Ms. Williams with 43.2 percent of the vote.

Prior to his election in District 4 in 1992, Cleo Fields also challenged Mr. Holloway for the District 8 seat in 1990. The African American percentage of the voter registration for that primary was 35.9. African Americans constituted a lower percentage of those receiving ballots however, 33.9, and were estimated to have been 33.5 percent of those casting votes in the congressional election. Mr. Fields was the choice of 84.7 percent of the African Americans, but only 3.2 percent of the non-African Americans. This left Mr. Fields with 29.6 percent of the votes. Unlike the 1986 and 1988 primaries, in which there were multiple white candidates dividing the non-African American vote, only one white Democrat, "Joe" McPherson, contested the seat in this primary and he received less than 20 percent of the non-African American vote. The division in the non-African American vote between

Holloway and McPherson was therefore insufficient to allow Mr. Fields to advance to a runoff.

District 8, despite having an African American population, voting age population, and usually voter registration that exceeded 35 percent, certainly was not a district in which African American voters, given white crossover, determined the outcome of elections. To the contrary, despite very impressive levels of African American support for the African American candidates (84.7 percent for Mr. Fields in the 1990 primary, and 97.0 and 96.7 percent for Ms. Williams in the 1986 and 1988 runoffs, respectively), these candidates were always "vetoed" by the non-African American voters in the district. Indeed, not only was District 8 not a district in which African American voters determined the outcome of elections, it cannot even be considered, in any empirical sense, an "influence" district. For example, over the four sessions of Congress from 1987 through 1990, Mr. Holloway, despite having the second highest number of African American constituents among Louisiana's congressman, ranked last among the state's delegation in support for civil rights measures endorsed by the Leadership Conference on Civil Rights, having supported the position of the Leadership Conference on roll call votes only six percent of the time. Mr. Holloway specifically opposed both the House and conference committee versions of the proposed Civil Rights Restoration Act in 1990, and was even one of the few Republicans in Congress to oppose the bipartisan compromise that resulted in the Civil Rights Restoration Act of 1991. Indeed, the plaintiffs' expert witness in this case, Professor Ronald Weber, in response to a question of whether Mr. Holloway was responsive to African American voters, testified at the 1992 hearing that he thought Mr. Holloway had been "unresponsive" (transcript p. 281).

Louisiana's congressional election experience does not support the plaintiffs' assertion that a district around 55 percent African American in voting age population or voter registration is a "packed" district containing more African American voters than reasonably necessary to provide African American voters with a "realistic chance" to elect a candidate of their choice. Neither does it support the plaintiffs' suggestion that districts in which African Americans constitute 35 to 45 percent of the citizens will provide such an opportunity. Indeed, Louisiana's experience does not even support a conclusion that districts within that range of minority population will necessarily result in a member of Congress being responsive to minority interests.

State Legislative Elections

Just as no African American has been elected to Congress from Louisiana in a district with a white voter registration majority, neither has an African American been elected to either chamber of the Louisiana legislature this century from a district in which whites have constituted a majority of the registered voters. The state legislative election experience also reveals, as has the congressional, that having an African American majority among the registered voters in a district is not a sufficient condition for the election of an African American candidate favored by African American voters.

The latest state legislative elections were held in 1991. Eight African Americans were elected to the state senate that year. As Plaintiffs' Exhibit 8 in the 1992 hearing of this case reveals, these eight African Americans were elected in the eight most African American districts in voter registration, districts ranging from 57.3 percent to 68.8 percent. The majority African American district with the lowest African American percentage however, Senate District 15, located in and around East Baton Rouge

Parish, did not elect an African American. Senate District 15, with a 55.1 percent African American registration (almost identical to that for congressional District 4 in Act 1) elected a white who was not the choice of the African American voters. While this candidate, Larry Bankston, received an estimated 15.7 percent of the African American vote, he received an estimated 87.9 percent of the non-African American vote, which gave him 51.2 percent of the total votes and therefore a primary election victory.

In the 1991 state House elections, 22 African Americans were elected from the 24 districts identified in Plaintiffs' Exhibit 8 as having African American registration majorities. These candidates were elected in districts ranging from 55.3 percent African American registration to 92.0. House District 102, which is listed in Plaintiffs' Exhibit 8 as 49.8 percent African American, also elected an African American, Troy Carter. The election in this district, located in the Algiers area of New Orleans, required a November runoff to determine the winner. Mr. Carter advance[d] to that runoff by finishing second in a crowded nine-candidate primary with 20.8 percent of the votes. District 102 did not have a majority white registration when Carter was elected in the runoff, as the African American registration in the district was up to 50.0 percent by that time, with African American registrants actually exceeding white registrants by about 300 (with the difference due to those classified as "other").

The results of the elections in the two majority African American districts in which African American candidates were not elected conflict with the plaintiffs' allegation that a district with a 55 percent minority registration is a "packed" district. These districts were House District 21 and House District 72, which had African American registration percentages of 53.1 and 53.9, respectively, at the time of the October primary. Despite these registration majorities, white candidates who were not the choice of African American voters were elected in both of these districts.

The white candidate elected in District 21, Bryant Hammett, received virtually no African American votes in the primary election, yet finished first in that election because he received over 90 percent (91.7) of the votes casy by non-African Americans. The candidate of choice of the African American voters was Moses Williams, who received an estimated 64.7 percent of their votes, along with 5.1 percent of those cast by the non-African Americans. When Mr. Williams faced Mr. Hammet in the runoff, Williams is estimated to have received 93.2 percent of the votes cast by African Americans, and Hammett 91.9 percent of those cast by non-African Americans. This resulted in Hammett winning this district, located in the northeast corner of the state, with 52.6 percent of the vote, because African American participation in this election was lower than that for the non-African Americans. While African Americans constituted 52.1 percent of those registered to vote in the runoff, they were 49.6 percent of those receiving ballots, and an estimated 45.6 percent of those actually voting in this legislative election.

House District 72 had an African American registration of 53.9 percent at the time of the October primary, yet a white candidate who was not the choice of the district's African American voters was elected in that district as well. The primary election in District 72, located north and west of Baton Rouge, was contested by eight candidates, four African American voters provided these four candidates only about 10 percent of their votes. The top two choices of the African American voters were both African Americans who received 28.8 percent and 24.3 percent of their votes. The first choice of the African Americans received virtually no votes from non-African Americans, however, and the second choice received only an estimated 6.8 percent. Neither made the runoff. The winning candidate, Buster Guzzardo, had been the third choice of African American voters in the primary, receiving an estimated 13.3 percent of their votes, and the first choice of the non-African Americans, with an estimated 39.0 percent of their votes. Guzzardo defeated another white candidate in the runoff. His runoff opponent had been the second choice of the non-African American voters in the primary, with 25.0 percent of their votes, and the sixth choice of the African Americans, with 7.7 percent of their votes.

The results of several other state House elections also conflict with the allegation that a 55 percent African American district is a "packed" district. African American candidates won very close runoff elections against white opponents in House Districts 11, 40, and 100, despite these districts having African American voter registration majorities at the time of 58.9, 55.0, and 61.2 percent, respectively. In District 11, in north Louisiana, Pinkie Wilkerson received an estimated 88.8 percent of the African American vote, while her white opponent in the runoff received an estimated 95.7 percent of the non-African American vote. This left Ms. Wilkerson with only 51.8 percent of the total vote. In District 40, in St. Landry Parish, Charles Hudson received an estimated 89.2 percent of the African American vote, while his white opponent in the runoff received an estimated 92.7 percent of the non-African American vote. This left Mr. Hudson with only 50.1 percent of the total vote. And in District 100, in New Orleans, David Armstrong received an estimated 79.6 percent of the African American vote, while his white opponent in the runoff received an estimated 95.4 percent of the non-African American vote.

This left Mr. Armstrong with 52.3 percent of the total vote.

Given the success of white candidates who were not the choice of African American voters in Senate District 15 and House Districts 21 and 72, and the narrow runoff victories of African American candidates who were the choice of African American voters in House Districts 11, 40, and 100, one cannot conclude that a district with a 55[%] African American registration majority is a "packed" district in Louisiana. These districts had African American voter registration majorities ranging from 53.1 percent to 61.2 percent. It is also clear that if House Districts 11, 40, and 100 had had African American registration percentages in the 35 to 45 percent range, as suggested by the plaintiffs' in this case, Ms. Wilkerson, Mr. Hudson, and Mr. Armstrong would not have been elected.

Conclusions

An examination of the recent electoral experience in Louisiana, at the congressional and state legislative levels, leads to two unmistakable conclusions. A district in which African Americans constitute about 55 percent of the registered voters is not a "packed" district in which there are "too many" African American voters. This is not a context in which African American voting strength is "wasted" as a consequence of exessive support for winning candidates.

Districts in which African Americans constitute from 35 to 45 percent of the registered voters, in turn, have "too few" African American voters to provide the minority community with a "realistic chance" to elect the candidates of their choice. The election of African Americans in majority white electoral units continues to be an exceptional, rather than normal, political event in Louisiana.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 20th day of July, 1994.

/s/ Richard L. Engstrom
RICHARD L. ENGSTROM

STATE EXHIBIT 16

UNITED STATES DISTRIC COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 92-1522S

RAY HAYS, ET AL., PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL., DEFENDANTS

Declaration of Joesph Accardo, Jr.

I, Joesph Accardo, Jr. declare pursuant to 28 U.S.C. § 1746 as follows:

1. I live in Laplace, Louisiana in St. John the Baptist Parish and am a member of the Louisiana House of Representatives, having served in that capacity since 1972. I represent House District 57, which is comprised of portions of St. James and St. John the Baptist Parishes.

2. I served as chairman of the House of Representatives Committee on House and Governmental Affairs during the Second Extraordinary Session of the 1994 Louisiana Legislature. That committee held hearings on April 18, 1994, at which the various bills introduced by members of the House to redistrict the Louisiana congressional districts were considered.

3. Included in the bills introduced was House Bill 11, which I authored. The redistricting plan included in this bill was substantially the same as Senate Bill 1, which ultimately became, with a few minor alterations, Act 1 of 1994.

4. In introducing House Bill 11, it was my intent to provide a redistricting plan that would comport with traditional redistricting criteria such as population equality, compactness, contiguity, communities of interest, and preservation of political and geographic boundaries, and also assure that all citizens of the state would have an equal opportunity to elect the candidates of their choice. The bill that was ultimately adopted and became Act 1 meets those requirements.

5. In my participation in the redistricting process, both as chairman of the committee and as author of House Bill 11, my goal was to assure that the plan that was ultimately passed by the legislature was one that complied with all of the requirements of federal law, including Sections 2 and 5 of the Voting Rights Act and the Equal Protection Clause of the United States Constitution as interpreted by the courts in *Shaw v. Reno* and *Hays v. Louisiana*.

6. It was my belief, and that of many of my fellow legislators, that any plan passed by the legislature would have to include two districts that would afford minorities a reasonable opportunity to elect candidates of their choice to congress. I was concerned, and discussed this concern with other legislators, that a plan that did not include two such districts would be retrogressive, and under Section 2 analysis, would dilute minority voting strength, and therefore would not receive preclearance by the United States Justice Department.

7. I am a lawyer by occupation, and having reviewed the law and jurisprudence pertaining to the Voting Rights Act, I concluded that a plan that included only one majority-minority district would be subject to challenge under Section 2 of the Voting Rights Act. As demonstrated by various bills introduced in the legislature, including my House Bill 11, a second majority-minority dis-

trict could be drawn using traditional districting principles employed by Louisiana in the past. In addition, the racial bloc voting patterns prevalent in Louisiana and the inability of minorities to elect candidates of their choice from districts other than majority-minority districts, would cause serious doubt about the validity of alternative redistricting plans that contained only one majority-minority district.

8. It is common knowledge among the members of the state legislature that the minorities in this state, including those in Act 1's Congressional District 4, have suffered from discrimination in the past. Their lower social and economic status is to a large part a remnant of that past history.

9. District 4, as contained in House Bill 11 and Act 1, is similar to but in many respects more compact than the old eighth congressional district, which at one time stretched from Sabine parish down the Red and Mississippi Rivers to St. John the Baptist parish.

10. I believe that the residents of Act 1's district 4 share many common interests and concerns. It generally includes relatively poor urban and rural areas located along the Red and Mississippi rivers. For example, farmers and residents in Sabine parish have common interests with those in West Baton Rouge, the industrial plant workers in the paper plants in northwest portion of the district have interests common to those of Exxon plant workers in East Baton Rouge Parish, and the distances between them do not negate the commonality.

11. The legislature, in enacting Act 1, determined that it better served the interests of all the state's citizens. Other plans that were introduced, such as House Bill 5 and other similar plans, were disproportionately skewed in favor of north Louisiana, an area that has lost population in the 1980's relative to the rest of the state. Also, House Bill 5

and other similar plans would have adversely impacted on the ability of some incumbents to retain their seats.

13. On April 20, 1994 the House Committee on House and Governmental Affairs held a hearing to consider Senate Bill 1, which had been passed by the Senate with amendments. The Senate amendments had moved Sabine parish from the Fourth to the Seventh Congressional district and made various other changes in East Baton Rouge and four other parishes. The committee amended the bill to remove the Senate amendments, and made additional changes that had the effect of making the towns of Eunice in St. Landry Parish and Carencro in Lafayette Parish whole, and moving other portions of St. Landry and Lafayette parishes from the Fourth to the Seventh congressional district.

12. The changes made by the committee were not based on racial considerations, but were due to political and historical considerations, including an effort to decrease the number of split municipalities and preserve as much as possible of Congressman Hayes' traditional electoral base. The area of Lafayette Parish moved into District 7 is in fact slightly higher in minority population than the population in Sabine parish which was placed in District 4. However, the areas in Lafayette parish moved by the House committee amendments had been in District 7 in the 1980's congressional districting plans and in District 7 in the Act 42 plan, whereas Sabine parish had not previously been represented by Congressman Hayes. Thus the shape of the boundaries in Lafayette and St. Landry parishes were influenced by non-racial factors.

13. Senate Bill 1 was passed out of committee as amended in the manner described above, and was subsequently passed by the House and Senate in the form it left the House committee.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19th day of July, 1994.

/s/ Joseph Accardo, Jr.

JOSEPH ACCARDO, JR.

STATE EXHIBIT 18

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

Civil Action No. 92-CV-1522

RAY HAYS, ET AL, PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

DECLARATION OF RAYMOND A. JETSON

Pursuant to the provisions of 28 U.S.C. 1746, I, Raymond A. Jetson, declare as follows:

1) I live in Baton Rouge, Louisiana in East Baton Rouge Parish and I am a member of the Louisiana House of Representatives. I represent House District 61, and I have served as Representative for that district over the last ten years. I am currently the Chairman of the House Committee on Transportation, Highways and Public Works.

2) I am a resident of and registered voter in Congressional District 4, which is currently represented in Congress by Representative Cleo Fields. I was also a resident and registered voter in Congressional District 4 as it was constituted at the time of the 1992 congressional elections. I have been very active in civic and political affairs in my community for many years.

3) During the second extraordinary session of the Louisiana Legislature in 1994, I supported Act No. 1, a congressional redistricting plan that had been passed by the Louisiana Senate and had been sent to the Louisiana House of Representatives. I supported this plan because it was in the best interest of all persons in Louisiana. Even-

tually the House did vote in favor of the Senate plan and Act No. 1 became law.

4) There are no tapes or transcripts of which I am aware that record the various statements and speeches made on the floor of the Louisiana House of Representatives during its consideration of Act No. 1. During the debate on the House floor, and before the House and Governmental Affairs Committee, I stressed the commonality of interests and characteristics shared by all of the persons who resided within proposed congressional district 4. I did so without regard to and without reference to the racial make-up of the district, or the race of the persons within proposed district 4.

5) I provided each member of the Louisiana House of Representatives with a handout which detailed some of the common characteristics of the persons in the proposed congressional district 4. The handout contained official data from the 1990 census and set forth information on persons who lived in parishes that were included, in whole or in part, in proposed congressional district 4. The handout was prepared at my request by a staff member of the Louisiana House of Representatives. The information contained in this handout, a copy of which is attached to this Declaration, was before each member of the Louisiana House of Representatives when they considered Act No. 1. The handout demonstrates how the persons grouped within District 4 under Act No. 1 share similar economic, educational and employment characteristics.

6) In all of my comments before the House and before the House and Governmental Affairs Committee, I stressed the commonality of the persons within District 4, and I did so without regard to the race of the persons. For example, I pointed out that the persons who live in the parishes that are covered in whole or in part by District 4 have similar levels of income, similar levels of educational at-

tainment and share similar employment or occupational characteristics. These data, I argued, showed how *all* of the people within District 4, whether black or white, share common concerns about the education of their children, about the income they were receiving, and about the types of jobs they held. It is my belief that the people in District 4 share common concerns and needs, whether they are urban blacks in Baton Rouge or rural whites and blacks living in DeSoto Parish. In my view, the data helped to convince my colleagues in the House to support the plan in Act No. 1 without focusing on the racial characteristics of District 4 or the race of the person who could represent that district.

7) In my statements on the House floor and before the House and Governmental Affairs Committee, I also stressed that the plan that had been approved by the Senate and was contained in Act. No. 1 reflected a traditional approach to redistricting that had been taken by Louisiana in the past. Since the new District 4 resembled old congressional District 8, I stressed how the plan had the historical advantage of having been the basis for prior congressional districting, and that it thus served an important governmental interest.

I declare under the penalty of perjury that the foregoing is true and correct.

/s/ Raymond A. Jetson

RAYMOND A. JETSON

July 18, 1994

U.S. EXHIBIT 9

IN THE UNITED STATES DISTRIC COURT FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, ET AL., PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL., DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

DECLARATION OF PEYTON McCRARY

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, ET AL, PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

DECLARATION OF DR. PEYTON McCRARY

Pursuant to 28 U.S.C. 1746, I, Peyton McCrary, make the following declaration:

1. My name is Peyton McCrary, and I reside in Arlington, Virginia. I am an historian employed since August, 1990, by the Voting Section, Civil Rights Division, of the Department of Justice. My responsibilities include the planning, direction, coordination, or performance of historical research or statistical analysis in connection with litigation. On occasion I am asked to provide written or courtroom testimony on behalf of the United States.

2. I received B.A. and M.A. degrees from the University of Virginia, and obtained my Ph.D. from Princeton University in 1972. My primary training was in the history of the United States, with a specialization in the history of the South during the 19th and 20th centuries. For 20 years I taught courses in my specialization at the university level, most recently as Professor of History at the University of South Alabama. In 1979 the Louisiana Historical Associa-

tion awarded my book, *Abraham Lincoln and Reconstruction: The Louisiana Experiment* (Princeton, N.J., Princeton University Press, 1978), the L. Kemper Williams Prize for the best book in the field of Louisiana history published in the preceding year. I have also published ten journal articles, book chapters, or review essays, and delivered five as yet unpublished conference papers. Seven of my published essays and three unpublished papers focus on the history of discriminatory election laws in the South, evidence concerning discriminatory intent or racially polarized voting presented in the context of voting rights litigation, or the impact of the Voting Rights Act in the South. I continue to publish scholarly work on these topics while employed by the Department of Justice.

3. I have presented courtroom testimony as an expert witness in 15 voting rights cases, for the most part during my service as a university faculty member. In one instance, however, I testified on behalf the United States as amicus curiae after my employment by the Department of Justice. In addition, I have presented sworn written testimony in five cases, once on behalf of the United States, after my employment by the Department of Justice. While a faculty member at the University of South Alabama, I also served as a consultant in at least 25 lawsuits that settled before trial. In most instances my testimony dealt with the issue of legislative intent in adopting or maintaining at-large elections, numbered place or majority vote requirements, or methods of appointing local governing bodies.

4. A detailed record of my professional qualifications is set forth in the attached Curriculum Vitae, which I prepared and know to be accurate.

5. At the request of attorneys in the Voting Section, Civil Rights Division, U.S. Department of Justice, I have summarized in this declaration historical evidence concerning: 1) racially discriminatory election laws in Louisiana; 2) voting rights lawsuits in Louisiana since 1965;

and 3) enforcement of Section 5 of the Voting Rights Act in Louisiana.[1] This testimony is drawn from my research over the last 13 years concerning discriminatory election laws in the South. Among the sources I have consulted concerning Louisiana election laws are: published work by historians, political scientists, and sociologists; published records of Louisiana state agencies and official bodies; unpublished records of various state agencies and official bodies; unpublished records of state and party officials; newspaper accounts of the deliberations of the Louisiana legislature; copies of election returns maintained by parish governments or state agencies; and copies of data compiled by the U.S. Bureau of the Census. For purpose of this declaration, however, I have cited wherever possible only readily available public documents, court cases, scholarly treatises, and public documents in the files of the U.S. Department of Justice.

Discriminatory Election Laws in Lousiana Before 1965

6. In 1964, the year before adoption of the Voting Rights Act, only 14 percent of the nonwhite voting-age population in Louisiana was registered to vote, yet 86 percent of the white voting-age population was on the registration rolls.[2] This dramatic disparity was the direct result of a series of discriminatory election laws, according to the United States Supreme Court, which enjoined further use of the state's requirement that prospective voters demonstrate to the satisfaction of local registrars that they could understand or interpret a passage from the state or

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[1] For purposes of this declaration I have not included references to litigation or Section 5 decisions regarding judicial elections in Louisiana.

[2] United States Commission on Civil Rights, *Political Participation* (Washington, D.C., G.P.O., 1968), 242-43.

federal constitutions. This registration test, like its predecessors, was racially neutral on its face but had been administered in a racially discriminatory manner.[3]

7. First widely enfranchised during the Reconstruction period, black citizens still comprised 45 percent of Louisiana's registered voters as late at 1896, when the legislature adopted two new laws designed to disfranchise as many blacks as possible, even if it also had the effect of disfranchsing poorly educated whites as well. One law provided a complex new Australian ballot and prohibited election officials from assisting illiterates. The other required all voters to re-register using a complex application form, prohibited explanation of application questions, and facilitated wholesale purges by either registrars or party officials of individuals voters who managed to register successfully. Flagrantly discriminatory application of the new laws reduced the white registration by more than half, but black registration declined by 90 percent, leaving only 10 percent of adult black males on the rolls.[4].

8. The constitutional convention of 1898 was called for the specific purpose of "purification of the electorate," according to its presiding officer, who added that had the delegates been free of concern about federal intervention they would have provided explicitly for "the exclusion from the suffrage of every man with a trace of African blood in his veins." The convention built on the foundation of the 1896 statutes.[5] Prospective voters had to

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[3] *Louisiana* v. *United States,* 380 U.S. 145 (1965).

[4] J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven, Ct., Yale University Press, 1974), 160-63.

[5] Richard L. Engstrom, Stanley A. Halpin, Jr., Jean A. Hill, and Victoria M. Caridas-Butterworth, "Louisiana," in Chandler Davidson and Bernard Grofman (eds.), *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton, N.J., Princeton University Press, 1994), 105.

demonstrate their ability to read and write by completing without assistance a complicated application form or, alternatively, to own property with an assessed value of at least $300. Anyone registered to vote before January 1, 1867, or with a father or grandfather so qualified, was exempted from these requirements. Implementation of these disfranchising devices reduced blacks to about 4 percent of the state's registered voters, although they made up approximately half the state's population.[6].

9. In 1915 the U.S. Supreme Court struck down Oklahoma's "grandfather clause."[7] Concerned about the possibility of federal court action, a new state constitutional convention in 1921 removed the grandfather clause but added "understanding" and "good moral character" requirements to the literacy test.[8] It also placed in the constitution provisions for primary elections used by the Democratic Party to operate a "white primary."[9] The U.S. Supreme Court struck down the Texas white primary in 1944.[10]. Louisiana did not make an effort to adopt new laws in the wake of this decision, however, perhaps because black voter registration did not increase significantly in the state.[11]

10. When Earl Long became Governor in 1948, he "passed the word to parish registrars: sign up black voters," according to his biographer, because he expected

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[6] *United States* v. *State of Louisiana*, 225 F. Supp. 353, 373 (E.D. La. 1963).

[7] *Guinn and Beal* v. *United States*, 238 U.S. 347 (1915).

[8] *United States* v. *State of Louisiana*, 225 F. Supp. 353, 375-76 (E.D. La. 1963).

[9] Engstrom, et.al., "Louisiana," 106.

[10] Smith v. *Allwright*, 321 U.S. 649 (1944).

[11] V.O. Key, Jr., *Southern Politics in State and Nation* (New York, Alfred Knopf, 1949), 519.

black citizens, if enfranchised, to vote for candidtes of the Long faction within the Louisiana Democratic Party.[12] At the beginning of his term blacks were only 2 percent of the state's registered voters; by the end they were 13 percent.[13]

11. Following the decision of the U.S. Supreme Court in *Brown* v. *Board of Education*, outlawing segregation in public schools, the Louisiana legislature in 1954 established a joint committee chaired by Willie Rainach, State Senator from Clairborne Parish, and other Long opponents. Popularly known as the "Segregation Committee," its stated purpose was "to provide ways and means whereby our existing social order shall be preserved," and in order "to maintain segregation of the races in all phases of our life in accordance with the customs, traditions, and laws of our State.[14]

12. Senator Rainach was among the founders of the Louisiana Association of Citizens' Councils, which published in 1956 a pamphlet entitled "Voter Qualification Laws in Louisiana – The Key to Victory in the Segregation Struggle." In the pamphlet the organization urged its members to initiate a purge campaign to challenge the right to vote of "the great numbers of unqualified voters who have been illegally registered," and who, according to the pamphlet, "invariably vote in blocks and constitute a menace to the community." The pamplet's subtitle was: "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils." The state government distributed the pamphlet to parish registrars with instruc-

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[12] Michael L. Kurtz and Morgan D. Peoples, *Earl K. Long: The Saga of Uncle Earl and Louisiana Politics* (Baton Rouge, Louisiana State University Press, 1990), 197-98.

[13] *Ibid.*, 198.

[14] *United States* v. *State of Louisiana*, 225 F. Supp. 353, 378 (E.D. La., 1963).

tions to follow its guidelines as closely as possible.[15]

13. Members of local citizens councils conducted extensive purges between 1956 and 1958 in various parishes. Following passage of the Civil Rights Acts of 1957 and 1960, the United States Department of Justice attacked these purges in the federal courts and won a series of rulings that the purges were illegal deprivations of the constitutional rights of black citizens.[16]

14. Finding that registrars had applied the state's interpretation test in a racially discriminatory manner, a three-judge panel found the test discriminatory in intent and enjoined its use in the 21 parishes at issues in *United States* v. *Louisiana*, a decision affirmed by the U.S. Supreme Court shortly before passage of the Voting Rights Act of 1965.[17]

15. Published congressional hearings on the Voting Rights Act included extensive quantitative evidence concerning racial discrimination in voter registration in Louisiana, drawn from the various federal court cases filed by the Department of Justice. In addition, the hearings reproduced substantial evidence of racial disparities in educational expenditures by the state over several decades together with documentation that these disparities were a product of the state's official policy of racial discrimination in education.[18]. Such educational disadvantages, typically correlated with disparities in socio-economic status, tend to depress voter registration and turnout, as

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[15] *Ibid.*, 379.

[16] *Ibid.*

[17] 225 F. Supp. 353 (E.D. La., 1963), *aff'd* 380 U.S. 145 (1965).

[18] *Hearings Before the Committee on the Judiciary, United States Senate, Eighty-Ninth Congress, First Session . . . Part 2* (Washington, D.C., G.P.O., 1965), 1103-59, 1189, 1191-92, 1199-1201, 1208-10, 1220-21, 1224-26, 1229-34, 1250-52, 1263-70, 1280-81, 1412-41, 1447-55, 1479-84.

well as other forms of political participation.[19]

Implementation of the Voting Rights Act in Louisiana

16. As a result of the low level of voter registration in the state, accompanied by the existence of the restrictive tests and devices used over the preceding decades, Louisiana's literacy test was suspended by Section 4 of the Voting Rights Act, and it was among the states covered by Section 5, the "preclearance" requirement.[20] In addition, federal examiners were sent to nine of the state's parishes where the record of discriminatory registration practices was particularly dramatic. When local judges sought to block the voter registration efforts of the examiners in several parishes in the weeks following adoption of the Act, the Department of Justice successfully used its powers under the Act to eliminate all such judicial obstacles. By the fall of 1967 federal officials had added over 24,000 blacks to the registration rolls in Louisiana, and there were large increases in registration by parish officials, particularly in parishes surrounding those where examiners were stationed. By October of that year, 59 percent of the black voting age population was registered (compared with 93 percent for whites), and blacks made up approximately 20 percent of the Louisiana electorate.[21]

17. In 1968 the state altered its long-standing policy prohibiting the use of at-large elections for parish police juries and school boards by adoption of two statutes enabling both types of local governing bodies to use parish-wide

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[19] S. Rep. No. 97-417, at 29, citing *White* v. *Regester*, 412 U.S. 755, 768 (1973), and *Kirksey* v. *Board of Supervisors*, 554 F.2d 139, 145 (5th Cir. 1977) (en ban).

[20] Pub.L. 89-110, 79 Stat. 437 [42 U.S.C. 1971, 1973 et. seq.].

[21] David J. Garrow, *Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965* (New Haven, Ct., Yale University Press, 1978), 180-84; Engstrom, et. al., "Louisiana," 108-09; U.S. Commission on Civil Rights, *Political Participation*, 243.

elections rather than realign their single-member districts. The state was required by the decision of the U.S. Supreme Court in *Allen* v. *State Board of Elections* to submit these changes for review by the Department of Justice pursuant to Section 5 of the Voting Rights Act.[22] On June 26, 1969, the Attorney General objected to the two state enabling acts on the grounds that at-large elections would in many instance, if implemented, "have the effect of discriminating against Negro voters on account of their race." [23].

18. Between 1971 and the end of 1974, the Attorney General objected under Section 5 to 12 efforts to switch to an at-large system, or to use multi-member districts, for electing police jurors or school board members in Lousiana.[24]. During the 1970s, the federal courts struck down

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[22] 393 U.S. 544 (1969).

[23] See the objection letter of June 26, 1969, objecting to Acts 445 and 561 and 1968, and the discussion in *Zimmer* v. *McKeithen*, 485 F.2d 1297, 1301-02 n. 7 (5th Cir. 1973) (en banc). Political scientists had long understood that at-large elections enable a white majority, if it chooses to vote as a cohesive bloc, to prevent minority representation altogether. See Robert E. Lane, *Political Life: Why People Get Involved in Politics* (Glencoe, Ill., Free Press, 1959), 270; Edward G. Banfield and James Q. Wilson, *City Politics* (Cambridge, Ma., Harvard University Press, 1963), 87-96, 307-09; Donald R. Matthews and James W. Prothro, *Negroes and the New Southern Politics* (New York, Harcourt, Brace, 1966), 4-5, 143-44, 208, 220-21; Everett C. Ladd, *Negro Political Leadership in the South* (Ithaca, N.Y., Cornell University Press, 1966), 29-30, 102-03, 307.

[24] The objections, listed in chronological order, applied to the following governing bodies: St Helena Parish police jury (May 14, 1971); Jefferson Davis Parish police jury (May 14, 1971); Jefferson Davis Parish police jury (June 4, 1971); Franklin Parish police jury (July 8, 1971); St. Charles Parish police jury (July 22, 1971); DeSoto Parish police jury (August 6, 1971); East Feliciana Parish police jury (September 20, 1971); St. Helena Parish police jury [2nd time] (Oc-

as racially discriminatory the use of multi-member districts in East Carroll, Ouachita, Plaquemines, and Rapides parishes.[25]. The federal courts also struck down at-large systems for various Louisiana municipalities.[26].

19. In 1971 the legislature incorporated multi-member districts in the New Orleans and Shreveport metropolitan areas, and in various rural parishes, into its redistricting plans for both state senate and house. The Department of Justice objected under Section 5 of the Voting Rights Act, however, citing both the dilution caused by multi-member districting and the fragmentation of black voting strength in each area.[27] A federal judge hearing a constitutional challenge to the state's redistricting plan observed that had the U.S. Attorney General not objected he would have found the districting plan unconstitutional because it was malapportioned, diluted minority voting strength, and employed "gerrymandering in its grossest form."[28]. The court ordered legislative elections to be held under its own interim plan, relying exclusively on single-member dis-

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tober 8, 1971); Ascension Parish school board (April 20, 1972); East Feliciana Parish school board (April 22, 1972); Lafayette Parish school board June 16, 1972); Evangeline Parish school board and police jury (June 25, 1974).

[25] See *Zimmer* v. *McKeithen*, 485 F.2d 1297, 1301-02 n. 7 (5th Cir. 1973) (en banc), regarding East Carroll Parish; *Turner* v. *McKeithen*, 490 F.2d 191 (5th Cir. 1973), regarding Ouachita Parish; *Broussard* v. *Perez*, 416 F. Supp. 584 (E.D. La. 1976), regarding Plaquemines Parish; and *Parnell* v. *Rapides Parish School Board*, 425 F. Supp. 399 (W.D. La. 1976), *aff'd in part* 563 F.2d 180 (5th Cir. 1977).

[26] *Perry* v. *City of Opelousas*, 375 F. Supp. 1170 (W.D. La. 1974), *aff'd*, 515 F.2d 639 (5th Cir. 1975); *Wallace* v. *House*, 377 F. Supp. 1192 (W.D. La. 1974), *aff'd in part*, 515 F.2d 619 (5th Cir. 1975), regarding the town of Ferriday in Concordia Parish.

[27] Objection letter, August 20, 1971.

[28] *Bussie* v. *Governor of Louisiana*, 333 F. Supp. 452, 454 (E.D. La. 1971).

tricts. By the end of that decade, reports a recent study, voters had elected black representatives in 10 house districts and in two senate districts.[29].

20. Because of the state's failure to secure preclearance of at-large elections for parish governing bodies, single-member districts have subsequently prevailed in Louisiana. Such plans can, of course, be drawn in such a way as to dilute minority voting strength. In the 1970s the Department of Justice objected on 20 occasions to redistricting plans for parish police juries and school boards.[30].

21. The Department of Justice twice objected to redistricting plans for the New Orleans city council after the 1970 census.[31]. Council districts in New Orleans ran more or less from north to south, and had done so since at least 1961. Because the black residential areas tended to run from east to west through the center portions of the

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[29]. Engstrom, et.al., "Louisiana," 111.

[30] The objections to redistricting plans, listed in chronological order, involved the following jurisdictions: Assumption Parish school board (July 8, 1971); Jefferson Davis Parish school board (July 23, 1971); Ascension Parish police jury (July 23, 1971); Bossier Parish school board (July 30, 1971); Webster Parish police jury (August 6, 1971); Point Coupee Parish police jury (August 9, 1971); Natchitoches Parish school board (September 20, 1971); Caddo Parrish school board (October 8, 1971); St. James Parish police jury (November 2, 1971); East Feliciana Parish police jury (December 28, 1971); St. Mary Parish school board (January 12, 1972); Ascension Parish school board (April 20, 1972); Point Coupee Parish school board (June 7, 1972); Lafayette Parish school board (June 16, 1972); Evangeline Parish school board and police jury (June 25, 1974, and July 26, 1974); and Rapides Parish police jury and school board (December 24, 1975). U.S. Commission on Civil Rights, *The Voting Rights Act: Ten Years After* (Washington, D.C., 1975), list 12 parishes in which minority plaintiffs had filed lawsuits challenging these districting plans.

[31] See the objection letters of January 15, 1973, and July 9, 1973.

city, this had the effect of fragmenting black voting strength. Despite the fact that blacks made up 45 percent of the city's population by the 1970s, only two of the five districts had black population majorities and blacks constituted a majority of the voting-age population in only one.[32].

22. A three-judge panel in the District of Columbia agreed with the Attorney General that the city council redistricting plan had the impermissible effect of diluting minority voting strength, but the U.S. Supreme Court reversed on the grounds that, under Section 5, a change could be defined as discriminatory in effect only if it placed minority voters in a worse position than before (making the change "retrogressive.") [33]

23. Even under the new retrogression theory established by *Beer*, however, the redistricting plan for the state house adopted by the Louisiana legislature in 1981 was discriminatory in effect, according to the Department of Jutice. By reducing the number of black-majority districts from 17 to 14, the plan would have placed black voters in a weaker position than under the plan precleared a decade earlier.[34].

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[32] Engstrom, et.al., "Louisiana," 114.

[33] *Beer* v. *United States*, 374 F. Supp. 363 (D.D.C. 1974), *rev'd*, 425 U.S. 130 (1976). Because the voting change at issue was the replacement of a districting plan adopted in 1961, before the massive increases in black voter registration brought about through the efforts of civil rights activists and, after 1965, the Voting Rights Act, observers found it difficult to imagine a plan adopted in the 1970s that could possibly have been retrogressive. As one legal scholar observed, the *Beer* decision resulted in "rewarding those jurisdictions with a history of the worst dilution of black electoral strength." Gayle Binion, "The Implementation of Section 5 of the Voting Rights Act: A Retrospective on the Role of Courts," *Western Political Quarterly*, 32 (1979), 171.

[34] See the objection letter of June 1, 1982. The redistricting plan for the state senate was precleared.

24. The Attorney General precleared the 1981 congressional redistricting plan, but black plaintiffs subsequently challenged the plan under the newly revised Section 2 of the Voting Rights Act, 42. U.S.C. 1973, under which they could show that the method of election was racially discriminatory in effect, without proving that it was discriminatory in intent.[35] Although citing abundant evidence that might have led to a conclusion that the state adopted the plan with a racially discriminatory purpose, the court in *Major* v. *Treen* chose not to reach that issue in light of its finding that congressional district boundaries in Orleans and Jefferson parishes were drawn in such a way as to dilute minority voting strength.[36]

25. The court's principal concern in *Major* was that congressional district lines fragmented black voting strength in the city.[37] The court also found that the plan's boundary between the First and Second Congressional Districts "separates cohesive black neighborhoods in the inner city

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[35] Public Law 97-205, 96 Stat. 131 (1982).

[36] *Major* v. *Treen*, 574 F. Supp. 325 (E.D. La. 1983).

[37] The court commented that the shape of the Second Congressional District in New Orleans resembled the head of a duck. 574 F. Supp. 325, 335 (E.D. La. 1983). Louisiana had in the past tolerated congressional districts with shapes criticized at the time as unusual. In 1969, for example, the legislature adopted a plan in which the Eighth District, in which the incumbent was Speedy O. Long, extended from the Sabine River at the Texas-Louisiana border all the way east to Lake Pontchartrain. At least one political cartoon assigned eyes, mouth, and hands to the district, but within a short time comments about its shape on a map were eclipsed by concern over the *political* effects of the district lines in the New Orleans area. Opponents soon dubbed it the "Hale Boggs plan," after the long-time incumbent who stood to benefit most from the shifting of district lines in Orleans and Jefferson parishes. Richard L. Engstrom, "The Hale Boggs Gerrymander: Congressional Redistricting, 1969," *Louisiana History*, 21 (Winter 1980), 62.

which share common political and socio-economic interests premised on income, transportation, education and housing," adding that this pattern of splitting communities of interest was rarely present in regard to white neighborhoods.[38]

26. In addition, the court found that Louisiana had experienced a long history of racial discrimination in education, employment practices, public accomodations, housing, and voter registration, and that the effect of this history lingered into the present by diminishing the level of political participation.[39]

27. The court in *Major* v. *Treen* found that voting patterns in the New Orleans metropolitan area (the focus of its inquiry) were polarized along racial lines.[40] In this regard, previous vote-dilution decisions had frequently included such findings of racial polarization.[41] Even in *Beer*, the court found that voting patterns in New Orleans were racially polarized.[42] Subsequently in a number of challenges to at-large election systems at the local level, courts have made judicial findings that voting patterns

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[38] *Ibid.*

[39] 574 F. Supp. 325, 339-41 (E.D. La., 1983).

[40] 574 F. Supp. 325, 337-39 (E.D. La., 1983).

[41] See *Zimmer* v. *McKeithen*, 485 F.2d 1297, 1301-02 n. 7 (5th Cir. 1973) (en banc), regarding East Carroll Parish; *Turner* v. *McKeithen*, 490 F.2d 191 (5th Cir. 1973), regarding Ouachita Parish; *Perry v. City of Opelousas*, 375 F. Supp. 1170 (W.D. La. 1974), *aff'd*, 515 F.2d 639 (5th Cir. 1975); *Wallace* v. *House*, 377 F. Supp. 1192 (W.D. La. 1974), *aff'd in part*, 515 F.2d 619 (5th Cir. 1975), regarding the town of Ferriday in Concordia Parish; *Broussard* v. *Perez*, 416 F. Supp. 584 (E.D. La. 1976), regarding Plaquemines Parish; and *Parnell* v. *Rapides Parish School Board*, 425 F. Supp. 399 (W.D. La. 1976), *aff'd in part* 563 F.2d 180 (5th Cir. 1977).

[42] *Beer* v. *United States*, 374 F. Supp. 363, 375 (D.D.C., 1974), *rev'd on other grounds*, 425 U.S. 130 (1976).

were racially polarized and have found that the method of election violated Section 2 of the Voting Rights Act.[43]

28. Broader confirmation of the effects of racially polarized voting in Louisiana is provided by two recent studies. One study, a comparative analysis of Southern state legislatures and congressional delegations in 1988, finds that not a single black state legislator in either house or senate was elected from a majority-white district in Louisiana, although the predicted proportion (had race not been a factor in the election process) was 21 percent of the seats in the house and 25 percent of the senate seats. In black-majority districts, however, 83 percent of the seats in the house and 100 percent in the senate were held by black legislators.[44] A second study of black officeholding on municipal governing bodies in Louisiana in 1989 finds that only 4 percent of the persons elected from white-majority single-member districts were black; by contrast, 98 percent of those elected from black single-member districts were black.[45]

29. A factor contributing to the success of single-member district plans in providing a fair opportunity for minority voters to elect candidates of their choice has been the scrutiny of the redistricting process by the Department

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[43] *Citizens for a Better Gretna* v. *City of Gretna*, 636 F. Supp. 1113 (E.D. La., 1986), *aff'd,* 834 F. 2d 496, 502 (5th Cir. 1987); *East Jefferson Coalition for Leadership and Development* v. *Parish of Jefferson*, 691 F. Supp. 991 (E.D. La., 1988), *aff'd*, 926 F.2d 487 (5th Cir., 1991); *Westwego Citizens for Better Government* v. *City of Westwego*, 872 F.2d 1201 (5th Cir., 1989).

[44] Lisa Handley and Bernard Grofman, "The Impact of the Voting Rights Act on Minority Representation: Black Officeholding in Southern State Legislatures and Congressional Delegations," in Davidson and Grofman (eds.), *Quiet Revolution in the South*, 338, 346 (Tables 11.3, 11.4).

[45] Engstrom, et.al., "Lousiana," 132 (Table 4.7A).

of Justice in enforcing Section 5 of the Voting Rights Act.[46] Following the 1980 census the Attorney General interposed 13 objections to parish police juries and school boards.[47]. In the 1990s the Department has objected to 37 redistricting plans for parish governing bodies.[48] At the state level, finally, the Attorney General objected to the 1991 redistricting plans for both senate and house, and to the district alignments for the Board of Elementary and Secondary Education.[49]

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[46] Engstrom, et. al., "Louisiana," 110-112.

[47] Madison Parish school board and police jury (August 16, 1982); West Baton Rouge Parish school board (November 8, 1982); Assumption Parish school board and police jury (November 30, 1982); LaSalle Parish school board and police jury (December 20, 1982); Winn Parish school board (January 14, 1983); St. Helena Parish school board and police jury (April 11, 1983); Assumption Parish school board and police jury (May 2, 1983); Caddo Parish commission (July 11, 1983); and Point Coupee police jury (August 22, 1983).

[48] Morehouse Parish police jury (September 27, 1991); Bienville Parish police jury (September 27, 1991); Jackson Parish police jury (October 8, 1991); DeSoto Parish police jury (October 15, 1991); Catahoula Parish police jury (October 25, 1991); St. Martin Parish school board and police jury (October 25, 1991); West Feliciana Parish police jury (October 25, 1991); Franklin Parish police jury (November 25, 1991); St. Landry Parish police jury and school board (December 16, 1991); East Carroll Parish police jury and school board (December 20, 1991); Concordia Parish police jury (December 23, 1991); Webster Parish school board and police jury (December 24, 1991); Richland Parish police jury (January 2, 1992); Terrebonne Parish council (January 3, 1992); Point Coupee Parish police jury (February 7, 1992); Madison Parish school board and police jury (April 10, 1992); Morehouse Parish police jury (May 26, 1992); East Carroll Parish police jury (August 21, 1992); Point Coupee Parish police jury September 10, 1992); Morehouse Parish police jury (September 14, 1992); Lafayette Parish School District (September 21, 1992); Vermillion Parish police jury (December 30, 1992; East Carroll Parish School District (January 4, 1993); West Carroll Parish School District (March 30, 1993); Evangeline Parish School District (May 24, 1993); Iberville Parish School District (June 21, 1993); St. Mary Parish School District (August 30, 1993); Bossier Parish School District (August 30, 1993); Lafayette Parish consolidated government (October 18, 1993); and Iberville Parish School District (November 24, 1993).

30. In this declaration I have recounted the history of racially discriminatory election laws in Louisiana over the last century and the efforts to overcome the effects of those discriminatory laws, both by enforcement of the Voting Rights Act of 1965 and by litigation to enforce the constitutional rights of minority citizens. As a result of the Voting Rights Act, the level of black voter registration and turnout has increased dramatically since 1965. Continuing efforts by the state and local jurisdictions to use at-large elections or districting plans which dilute minority voting strength, however, would have minimized the opportunities of these new voters to elect candidates of their choice to public office without the frequent intervention of the fedral courts or the Department of Justice in its administration of the preclearance requirements of Section 5 of the Act.

31. The level of racially polarized voting in Louisiana remains substantial. As a result, black officeholding at state and local levels is restricted overwhelmingly to jurisdictions or single-member districts in which a majority of those casting ballots on election day are black. This fact, as well as the broader record of historical discrimination in regard to voting, are matters well known to public officials and political observers in Louisiana.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of July, 1994.

/s/ Peyton McCrary

PEYTON MCCRARY

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[49] See the objection letters of June 28, July 15, and October 1, 1991.

U.S. EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, ET AL, PLAINTIFFS

v.

STATE OF LOUISIANA, ET AL, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

DECLARATION OF OLETHIA DAVIS

REPORT ON COMMONALITY OF INTERESTS WITHIN LOUISIANA'S NEWLY CREATED FOURTH CONGRESSIONAL DISTRICT

OLETHIA DAVIS
ASSISTANT PROFESSOR
DIRECTOR, VOTING RIGHTS PROGRAM
DEPARTMENT OF POLITICAL SCIENCE
SOUTHERN UNIVERSITY
BATON ROUGE, LOUISIANA

PERSONAL BACKGROUND AND EXPERIENCE

1. My name is Olethia Davis. I am a resident of the State of Louisiana.

2. I am an assistant professor and director of the Voting Rights Program in the Department of Political Science at Southern University-Baton Rouge. I received my B.A. in Political Science and Sociology from Louisiana State University, Baton Rouge, LA, and an M.A. and Ph.D. from LSU, with a concentration in American politics, voting behavior, public law, public administration, and judicial politics. A copy of my curriculum vitae is attached to this report.

3. I have conducted research in the area of political science, including the political interests and voting preferences of voters in the State of Louisiana. My doctoral dissertation was on voter turnout in Lousiana's judicial elections.

4. I was first introduced to voting rights cases while working as a research assistant to Dr. Ronald E. Weber. My interest in such cases resulted in my expanding on a data set (election results, campaign financing, and the race of judicial candidates) originally created by Professor Weber to assist the State of Louisiana in its defense of legal challenges by minority plaintiffs to Louisiana's

judicial election structures. My expansion of this data set accumulated into my dissertation research. As a result of the four years in which I worked for Professor Weber and my interest in the area of voting rights, I acquired first-hand knowledge of the relevant issues (plaintiffs' and defendants'), statistical procedures (including ecological regression and homogeneous precinct analyses), and the role of expert witnesses in such litigation.

After two years at the University of Wisconsin-Milwaukee, I returned to Louisiana and began my work at Southern University. During my first year at this university, I applied for and received a voting rights grant from the Southern Regional Council, Atlanta, Georgia. The purpose of this grant was to allow me to apply my voting rights knowledge and to establish a voting rights program at the university. Additionally, I have also learned how to draw redistricting maps. I have conducted homogeneous precinct analyses for the preliminary aspect of a voting rights case, provided sociodemographic data to illustrate economic disparities between whites and blacks in a lawsuit, prepared a preclearance objection report for a Louisiana councilman, been retained to draw a councilmanic map, and attended depositions in voting rights cases in North Carolina and California. I have not testified previously as an expert witness.

PURPOSE OF THE ANALYSIS

The purpose of this analysis is to determine whether Louisiana's newly created Fourth Congressional District is violative of "commonality of interests" factors set forth by the court in *Hays v. State of Louisiana* (LA 839 F.Supp. 1188, 1993). I will also examine District 4 in the 1994 Louisiana Congressional redistricting plan to evaluate whether it is "compact" under a "functional" view of compactness.

In its decision in this case, the court lists 3 categories of factors to be considered when ascertaining commonality of interests within a single congressional district. These factors are (1) regligion and ethnicity (2) economic base, and (3) geography and topography. The first two factors listed by the court in *Hays* will be analyzed in this report to determine the extent of commonality of interests in District 4, created by Act 1 of the Louisiana Legislature.

I have also examined District 4 in order to ascertain whether it is "functionally compact". Functional compactness involves such considerations as whether constituents and representatives can easily reach one another, whether campaigning within the district is feasible, and whether, as a practical matter, the district is capable of being adequately represented by a single person (Grofman and Handley, 1992)[1].

The units of analysis in this report are the parishes and cities, towns, or villages contained in District 4. *U.S. Census of Populations* data on parishes, parish subdivisions, and places have been relied upon in this analysis. Each locality will be categorized in terms of its location within the state-north or south. A comparison between these regions (north and south) will be employed in order to answer the following questions:

(1) whether the newly created Fourth Congressional District combines religious and ethnic groups which are distinct to north and south Louisiana, respectively.

(2) whether the Fourth Congressional District results in the formation of an "incoherent industrial base" (*Hays*, 1201).

(3) whether the Fourth Congressional District is functionally compact to such a degree whereby (a) transportation within the district is feasible and (b) campaigning and citizen contact with representatives is practicable.

I. *Religion and Ethnicity and Commonality of Interests*

Religion

Given the religious and ethnic diversity of the State of Louisiana a certain amount of mixing of religious and ethnic groups is inevitable when drawing congressional districts. I have analyzed available data to determine whether the Fourth Congressional District combines religious and ethnic groups which are presently distinct to a north-south division of the state. The sources relied upon in order to make this determination are census reports and telephone directories for the localities included in District 4. Census data were employed to determine the prevalence of ethnic groups within particular regions of Louisiana. However, the Bureau of Census no longer provides information on religious affiliation. For this reason, I used the yellow pages of telephone directories which contain a list of churches. Although relying upon telephone directories cannot provide an indication of the percentage of persons belonging to a specific religious denomination, I was able to determine whether particular religions are distinct to north or south Louisiana.

My finding is that specific religious denominations are not distinct to a particular area, north or south, of Louisiana. In fact, even within parishes as well as cities there is a multiplicity of religious affiliations, including non-denominational religious centers. In short, while certain religious denominations may predominate in certain areas of the state, religion transcends any "North Louisiana" and "South Louisiana" boundary.

Ethnicity

In order to determine whether certain ethnic groups are specific to north as opposed to south Louisiana, data were drawn from the 1990 *U.S. Census of Populations.* The census category relied upon was "ancestry". To insure inclusion of the appropriate populations, I conducted an overall analysis of ancestral groups found in parishes and parish subdivisions located in District 4. The data reveal that the dominant ethnic groups within District 4 are dispersed throughout the district. English, French, French Canadian, German, Irish, Italian, and even persons classifying themselves as having U.S. or American ancestry are present in what may be classified as northern areas of District 4 as well as the southern area.[1] Therefore, it is my conclusion that there are not distinct ethnic differences between the northern portions of District 4 and its southern components.

Since the census classifies Blacks as a racial group rather than on the basis of ethnicity, I relied upon the percentage of Blacks within the localities of District 4 as revealed by the redistricting plan. This analysis and the previous one involving ethnicity indicate that there is a substantial Black population concentration within and throughout District 4.

II. *Economic Base and Commonality of Interests*

According to the data contained in the *Louisiana Almanac. 1992-1993,* all parishes contained in District 4 have both agricultural and industrial components. In fact, in the mid-1960's Louisiana's secretary of agriculture issued a book entitled *Louisiana Agri-dustrial Directory: Agriculture and Industry in Balance,* which emphasized that the historical separation of agriculture and industry within the state no longer existed.

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[1] The only exception to the above finding is that a small percentage of persons with Scotch-Irish and Scottish ancestry were found in 2 of the 6 northern parishes and a number of the cities in this area. This ancestry group was not found in any of the southern parishes nor cities. This finding is not significant because these two ethnic groups were not present in all, or even most, of the northern area of District 4 and because the number of persons with Scottish and Irish ancestry is very small.

Furthermore, the department focused on agriculture, manufacturing, and petrochemical industries in general terms. In other words, the purpose of the directory was to link Louisiana's agriculture and industry into a productive economic base. To a large extent today, these components have spread throughout regions of the state. This is exemplified in the *U.S. Census of Population* report under the category "Occupation".

The economic base of District 4 is a combination of agriculture and industry. Although agriculture has historically played a major part in the economy of the State of Louisiana, an analysis of commonality of interests of District 4 should involve an evaluation of the economic base of a majority of the district's residents. Current census data reveals that a majority of the fourth Congressional district's residents are blue-collar workers. Extant literature in the field of political science suggest that blue-collar workers exhibit similar voting behaviors and share common interests (Wolfinger and Rosenstone, 1980; Verba and Nie, 1972, Nie *et al.,* 1976; Niemi and Weisberg, 1976).

III. Functional compactness of District 4

It is my conclusion that the Fourth Congressional District is functionally compact on the grounds of the availability of highways which connect every area of the district. For example, the district has connecting roadways (I-10, I-49, LA 71, US 61) which extend from the district's most northern city (Shreveport) to its most southern

(Baton Rouge) as well as waterways (Red River and Mississippi River) which follow the contours of the district. Railroads also parallel the northwest-southwest highway routes. These transportation facilities indicate that the district is one in which transportation between points in the district will not be difficult.

District 4 also appears functionally compact with regard to the feasibility of campaigning within the district and the capability of representing constituents. In light of the existence of modern communication techniques, Congressional franking privileges, the historical utilization of home offices as well as Washington offices, and other traditional means of representing constituents which have been employed by Congresspersons, District 4 does not appear to present any particular difficulty for a candidate in campaigning or for its representatives to effectively represent his/her constituents.

Conclusion

My analysis indicates that the newly created Fourth Congressional District meets the criteria set forth by the court in determining commonality of interests.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge.

/s/ Olethia Davis July 19, 1994
OLETHIA DAVIS, Ph.D.

PLAINTIFFS' EXHIBIT 4

LOUISIANA CONGRESSIONAL DISTRICTS
ACT 1 CITY/TOWN SPLITS
POPULATION AND REGISTRATION PERCENTAGES

City/Town	District	White Pop. %	Black Pop. %	White Regis. %	Black Regis. %
Alexandria	4	21.4%	78.2%	20.3%	79.3%
	6	82.9%	15.3%	86.7%	12.2%
Baker	4	71.3%	27.9%	71.0%	28.8%
	6	72.3%	27.1%	76.0%	23.9%
Baton Rouge	4	18.9%	80.3%	21.1%	78.6%
	6	87.5%	9.0%	93.4%	5.6%
Breaux Bridge	3	79.9%	19.8%	85.7%	14.2%
	4	13.3%	86.5%	15.2%	84.7%
Coushatta	4	35.4%	62.9%	36.2%	63.7%
	5	84.8%	14.2%	77.1%	22.5%
Donaldsonville	3	79.7%	20.2%	85.0%	14.6%
	4	30.6%	68.8%	32.0%	67.8%
Gonzales	3	84.1%	14.4%	88.0%	11.7%
	4	38.3%	61.7%	31.2%	68.5%
Gretna	1	83.4%	11.7%	91.3%	7.3%
	2	49.3%	48.6%	52.2%	46.4%
Kenner	1	87.6%	7.3%	92.6%	4.8%
	2	51.7%	45.3%	52.4%	45.7%
Lafayette	4	21.1%	78.4%	20.0%	79.8%
	7	86.2%	11.4%	91.3%	8.0%
Natchitoches	4	33.5%	64.5%	30.7%	67.8%
	6	86.6%	12.5%	90.3%	8.3%
New Orleans	1	92.6%	5.6%	93.9%	5.0%
	2	29.9%	66.8%	32.3%	65.8%
New Roads	4	1.5%	98.4%	1.3	98.7%
	6	78.5%	21.4%	88.5%	11.3%
Opelousas	4	26.2%	73.5%	25.4%	74.4%
	7	85.0%	14.5%	87.4%	12.1%
Pineville	4	51.5%	41.3%	53.2%	46.1%
	6	80.9%	17.7%	86.3%	13.0%
Shreveport	4	25.7%	73.8%	28.3%	70.9%
	5	88.1%	10.5%	92.3%	6.7%
Ville Platte	4	43.1%	56.6%	45.3%	54.7%
	7	81.2%	18.6%	83.7%	16.2%

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
[SEAL OMITTED]
Office of the Assistant Attorney General
Washington, D.C. 20035

April 20, 1994

VIA FACSIMILE TRANSMISSION

Brenda Wright, Esq.
Director, Voting Rights Project
Lawyers' Committee for Civil Rights Under Law
1450 G. Street, N.W.
Suite 400
Washington, D.C. 20005

Robert B McDuff, Esq.
771 North Congress Street
Jackson, Mississippi 39202

Re: *Hays* v. *Louisiana,* No. 92-CV-1522 (W.D. La.)

Dear Ms. Wright and Mr. McDuff:

This responds to your April 15, 1994, letter regarding the *Hays* v. *Louisiana* litigation, involving the challenge to Louisiana's 1992 congressional redistricting plan. We welcome your invitation for the Department of Justice to continue to work together with the Louisiana Legislative Black Caucus, which you represent, in our mutual roles as amicus curiae in this litigation.

We are aware that the Louisiana legislature is now in a special session called by Governor Edwards to consider the enactment of a new congressional redistricting plan in light of the ruling in *Hays* v. *Louisiana*, 839 F. Supp. 1188

(W.D. La. 1993), that Act 42, the congressional redistricting plan adopted in 1992, is unconstitutional and cannot be used in the 1994 elections. While we cannot comment on any particular redistricting plan under consideration, see Procedures for the Administration of Section 5, 28 C.F.R. 51.22, we believe some general observations can be made in light of the evidence adduced during the *Hays* case, and the general framework of the court's ruling.

In our supplemental brief filed in *Hays* in August 1993, we argued that the Voting Rights Act provides Louisiana with a compelling interest in drawing two congressional districts in which black voters would have an opportunity to elect candidates of their choice. That is still our view. In undertaking its congressional redistricting, Louisiana had a compelling interest in satisfying its burden of proof under Section 5 of the Voting Rights Act. Avoidance of retrogression of minority voting strength would justify the retention of the black-majority district in New Orleans. But the state also had a strong interest in adopting a plan that would not give rise to an inference of discriminatory purpose, so as to satisfy the "purpose" prong of Section 5. We believe the state was justified in concluding that it would have been unable to meet that burden if it adopted a plan with only one black-majority district, in light of the Attorney General's 1991 objection to the state's plan for the Board of Elementary and Secondary Education. That circumstance, together with the evidence of racially polarized voting in Louisiana and the availability of readily discernible alternatives for a reasonably compact second majority black congressional district, shows that the state had reason to believe a plan with two black-majority districts was necessary to obtain Section 5 preclearance.

We also argued that compliance with Section 2 of the Voting Rights Act gave the state a compelling interest to draw two black-majority congressional districts. Evidence in the record demonstrates that the three preconditions under *Thornburg* v. *Gingles,* 478 U.S. 30 (1986), are satisfied, giving Louisiana a strong basis for taking action to avoid a Section 2 violation. The plaintiffs' own plans, developed and presented at trial by Dr. Weber, demonstrate that the black population is sufficiently numerous and geographically compact such that two reasonably compact districts with black voting age population majorities can be drawn. In addition, there is uncontradicted evidence that voting is racially polarized in congressional elections, sufficient to satisfy the second and third *Gingles* preconditions.

The district court's ruling in *Hays* does not alter these judgments. In finding the 1992 plan unconstitutional, the district court assumed *arguendo* that the interests advanced by Louisiana were compelling, but then ruled that District 4 was not "narrowly tailored" to further those interests. The court's ruling is based on its conclusion that a more compact second black-majority district could be drawn and that a district with a lower percentage of black voting age residents would still provide black voters with a realistic opportunity to elect candidates of their choice. We recognize that the state has appealed the ruling in *Hays* and we concur in the view that *Hays* is wrongly decided. In fact, we are actively considering what role, if any, we will play in the appeal. Nevertheless, the court's acknowledgement that a more compact district can be drawn supports our position that Louisiana has a compelling justification to create two black-majority districts.

In sum, we believe that, under the totality of circumstances existing in Louisiana, it remains reasonable to conclude that the Voting Rights Act requires the state to devise a congressional redistricting plan with two black-majority districts. Moreover, such a plan can be devised in a way that would not run afoul of the Supreme Court's ruling in *Shaw* v. *Reno,* 113 S.Ct. 2816 (1993), or the district court's ruling in *Hays.* We recognize that there likely are a variety of plans that would accomplish those objectives and that the choice of which plan to adopt is a matter best left to the discretion of the legislature under our federal system.

Of course, the state must seek preclearance under Section 5, either from the Attorney General or from the District Court for the District of Columbia, of any new plan before it may be implemented in the 1994 elections. Should the state seek administrative preclearance through the Attorney General, we stand ready to conduct our review as expeditiously as possible, so that the state can proceed with its regular election schedule, which provides for candidate filing to occur in July.

I trust this letter provides a basis for us to continue to work together to resolve the *Hays* litigation in a way that ensures that the voting rights of the citizens of Louisiana are fully protected. If you have any further questions, you should contact Steven H. Rosenbaum, Chief of the Voting Section (202-307-3143).

Sincerely,

/s/ Deval L. Patrick
DEVAL L. PATRICK
Assistant Attorney General
Civil Rights Division

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, EDWARD L. ADAMS, SUSAN SHAW SINGLETON, AND GARY STOKLEY, PLAINTIFFS

v.

EDWIN EDWARDS, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF LOUISIANA; SAMUEL B. NUNEZ, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE LOUISIANA STATE SENATE; JOHN A. ALARIO, IN HIS OFFICIAL CAPACITY AS SPEAKER OF THE HOUSE FOR THE STATE OF LOUISIANA; W. FOX MCKEITHEN, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE FOR THE STATE OF LOUISIANA; JERRY FOWLER, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF ELECTIONS FOR THE STATE OF LOUISIANA; AND CERTAIN UNIDENTIFIED STATE LEGISLATORS, DEFENDANTS

UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

[Filed Dec. 9, 1994]

NOTICE OF APPEAL

Notice is hereby given that the defendant-intervenor, United States, hereby appeals to the United States Supreme Court from the Judgment of the United States District Court, Western District of Louisiana (three-judge court), entered on December 9, 1994.

This appeal is taken pursuant to 28 U.S.C. 1253.

Respectfully submitted,

DEVAL PATRICK
Assistant Attorney General
/s/ Richard Jerome
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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. CV 92-1522S

RAY HAYS, EDWARD L. ADAMS, SUSAN SHAW SINGLETON, AND GARY STOKLEY, PLAINTIFFS

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UNITED STATES OF AMERICA, DEFENDANT-INTERVENOR

[Filed Dec. 12, 1994]

AMENDED NOTICE OF APPEAL

Notice is hereby given that the defendants, Edwin Edwards, in his official capacity as Governor of the State of Louisiana, Samuel B. Nunez in his official capacity as President of the Louisiana State Senate, John A. Alario, in his official capacity as Speaker of the House for the State of Louisiana, W. F. McKeithen, in his official capacity as Secretary of the State for the State of Louisiana and Jerry Fowler, in his official capacity as Commissioner of Elections for the State of Louisiana, hereby appeal to the United States Supreme Court from the Judgment of the United States District Court, Western District of Louisiana (three-judge court), entered on December 9, 1994.

This appeal is taken pursuant to 28 U.S.C. 1253.

Respectfully submitted,

RICHARD P. JEYOUB
Assistant Attorney General

/s/ BY Roy A. Mongrue, Jr.

ROY A. MONGRUE, JR.
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In the Supreme Court of the United States

No. 94-558

UNITED STATES, APPELLANT

v.

RAY HAYS, ET AL.

ORDER

In this case probable jurisdiction is noted. The case is consolidated with No. 94-627, *Louisiana, et al.* v. *Ray Hays, et al.*, and a total of one hour is allotted for oral argument.

December 12, 1994

In the Supreme Court of the United States

No. 94-627

LOUISIANA, ET AL., APPELLANTS

v.

RAY HAYS, ET AL.

ORDER

In this case probable jurisdiction is noted. The case is consolidated with No. 94-558, *United States* v. *Ray Hays, et al.,* and a total of one hour is allotted for oral argument.

December 12, 1994